

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.256/08

Friday this the 23rd day of May 2008

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

Moncy K Joseph,
S/o.Joseph K.C.,
GDS MD, Kottiyoor P.O.,
Thalassery (via), Kannur.
Residing at Koyipuram House,
Chettiyamparamba P.O. Kelakam (via)
Thalassery, Kannur – 670 674.

...Applicant

(By Advocate Mr.M.R.Hariraj)

Versus

1. Union of India represented by the Secretary,
Ministry of Communication, Department of Posts,
New Delhi.
2. Chief Post Master General,
Kerala Circle, Trivandrum.
3. Director of Postal Services,
Northern Region, Calicut.
4. Superintendent of Post Offices,
Thalassery.
5. Sub Divisional Inspector,
Post Offices, Manathavady.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 23rd May 2008 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure A-1 letter dated 7.5.2008 of the 5th respondent, namely, the Sub Divisional Inspector, Post Offices, Manathavady by which he was informed that his Annexure A-4 request for

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transfer to the post of GDS BPM, Adakkathodu has not been recommended by the Regional Office i.e. the 3rd respondent, namely, Director of Postal Services, Northern Region, Calicut and hence the same has not been forwarded to the Circle Office.

2. The brief facts of the case are that the applicant commenced his service as EDDA, Chettiyamparamba with effect from 25.7.1989. Thereafter, on his request, he was transferred to the post of GDS MC, Santhigiri on medical grounds vide Annexure A-2 order dated 8.11.2002. However, the aforesaid post was abolished and he was redeployed as GDS MD, Kottiyoor B.O vide Annexure A-3 letter dated 6.11.2007. Since then, he has been working against that post. When a vacancy of GDS BPM was likely to arise at Adakkathodu with effect from 31.3.2008 on the retirement of the incumbent in that post he made the Annexure A-4 representation to the Chief Post Master General, Kerala Circle, Trivandrum (2nd respondent) to consider him for appointing him against that post on transfer basis. In his representation he submitted that Kottiyoor is situated 12 kms away from his residence and he has to travel in two buses to reach there and he has to spend about Rs.18/- per day. He has also submitted that his two children are studying in 10th and 7th standard respectively and he is the only earning member of the family. Further, he submitted that due to the fracture on his right ankle and left hand occurred in a bike accident recently he is unable to travel extensively. In the above circumstances, he has requested the 2nd respondent to grant him transfer as GDS BPM, Adakkathode. According to the applicant the aforesaid representation has been sent through the 5th respondent but the same was ^{not} forwarded to the 2nd respondent. However, after four months the 5th





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respondent vide Annexure A-1 letter dated 7.5.2008 informed him that the Regional Office has not recommended his transfer request and therefore the same was not forwarded to the Circle Office.

3. The applicant has filed a copy of letter No.19-10/2004-GDS dated 17.7.2006 by which Government of India, Ministry of Communications & IT, Department of Posts have issued guidelines regarding limited transfer facility to Gramin Dak Sevaks. According to the said letter power to grant limited transfer facility to GDSs vest with the Heads of Circles who will decide each and every individual case on merit keeping in view of the criteria mentioned therein in "public interest". The counsel for the applicant contended that the 5th and 3rd respondents should have placed his application before the competent authority, namely, the 2nd respondent (the Chief Post Master General) to take a decision on his request. According to the applicant, the denial of consideration of his application by the competent authority is arbitrary and illegal.

4. The counsel for the respondents, on the other hand, submitted that the applicant cannot be transferred to the post of GDS BPM, Adakkathodu because the said vacancy has been reserved for OBC and the applicant is not an OBC candidate.

5. I have heard Shri.M.R.Hariraj for the applicant and Shri.Shaji.V.A for the respondents. The only question to be considered is whether the 5th and 3rd respondents could have denied the right of the applicant to consider his application for transfer by the competent authority, namely, the 2nd respondent (the Chief Post Master General, Kerala Circle, Trivandrum).



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When the Annexure A-5 letter dated 17.7.2006 regarding limited transfer facility to GDSs stipulates that the Heads of Circle is the competent authority to decide the transfer requests, the applicant's request should have been considered by the 2nd respondent. The 5th and 3rd respondents should not have kept his application with them for over four months without placing it before the 2nd respondent. Such an action on the part of the 5th and 3rd respondents is nothing but arbitrary.

6. In these facts and circumstances of the case, I direct that the 5th and 3rd respondents to forward the Annexure A-4 representation of the applicant to the 2nd respondent and the 2nd respondent in turn ^{to} consider the same in accordance with the rules and take an appropriate decision in the matter and communicate the same to the applicant at the earliest. Till such time the post of GDS BPM, Adakkathodu shall not be filled up by any other person. However, if the selection procedure is already on, the same may be completed by the respondents, but no appointment orders shall be issued before a decision in this regard is taken by the 2nd respondent and conveyed to the applicant. The O.A is disposed of with the aforesaid directions. There shall be no order as to costs.

(Dated this the 23rd day of May 2008)


GEORGE PARACKEN
JUDICIAL MEMBER

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