

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.256/09

Monday this the 1st day of February 2010

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

K.B.Gopalakrishnan,
S/o.K.G.Bhaskara Panicker,
GDSMD II, Manarcaud.
Residing at Kochumadathil,
Amayannur P.O., Kottayam – 686 025.

...Applicant

(By Advocate Mr.V.Sajith Kumar)

V e r s u s

1. Union of India represented by the Secretary
to the Government, Ministry of Communications,
Department of Posts, Government of India,
New Delhi.
2. The Chief Postmaster General,
Kerala Circle, Department of Posts,
Trivandrum.
3. The Senior Superintendent of Post Offices,
Department of Posts, Kottayam Division,
Kottayam.
4. Assistant Superintendent of Post Offices,
Department of Posts, East Sub Division,
Kottayam – 686 001.
5. C.V.John,
GDSMDs, Amayannur,
EDSO, Department of Posts,
Kottayam – 686 025.
6. K.M.Joseph,
GDSMDs, Amayannur,
EDSO, Department of Posts,
Kottayam – 686 025. ...Respondents

(By Advocate Mr.A.D.Raveendra Prasad,ACGSC (R1-4))

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This application having been heard on 1st February 2010 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is aggrieved by the Annexure A-1 order dated 15.12.2008 to the extent that he has been retrenched as GDSMD of Amayannur Post Office and transferred as GDSMD II, Manarcaud against a newly created post and the delivery work of Amayannur EDSO was redistributed between his two juniors, namely, Shri.C.V.John and Shri.K.M.Joseph, who are the 5th and 6th respondents in this case.

2. The facts of the case as narrated by the applicant are that he was entered service as GDSMD at Amayannur Post Office on 1.8.1994. The 5th respondent entered service as a GDS Messenger at Puthupally Branch Post Office in the year 1996 and was later on transferred to Amayannur as GDSMD. The 6th respondent has entered service earlier than the 5th respondent. Thus the 5th respondent was the junior most among the three GDSMDs. The Amayannur Post Office was earlier divided into three beat areas. The applicant was in-charge of one of the beat areas consisting of (1) Vellimunnu-Thoothoddy-Pereppurram Orarakkal Kurisu Jn-Karunayamlokm Hospital Jn. (2) Chappattu Area and (3) Lakshamveedu Colony (Mahime Colony). The said beat area was later attached to the Malam Post Office with effect from 1.10.2008. The applicant, being in-charge of that beat, was attached to Malam Post Office. However, when there was a public outcry against the aforesaid arrangements, the respondents conducted a review of the workload of the delivery agents and the aforesaid delivery area attached to the Malam EDSO was returned to



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Amayannur EDSO and simultaneously divided the whole delivery area of Amayannur EDSO into only two beats and the two GDSMDs, namely, the 5th and 6th respondents who were already working there were assigned the entire delivery work including the area which has been returned from the Malam Post Office. The respondents treated the applicant as a retrenched GDSMD and transferred him as GDSMD Manarcaud against a newly created post. Aggrieved by the aforesaid arrangement, the applicant made Annexure A-4 representation stating that he has been working as EDDA/GDSMD Amayannur Post Office from 1.8.1994. He was transferred to Malam Post Office from 1.10.2008 when part of the delivery area of the Amayannur Post Office of which he was in-charge was attached to Malam Post Office. When the said delivery area was returned to Amayannur Post Office, he has to be retained in Amayannur Post Office itself. Instead, his juniors were retained at Amayannur Post Office and he was declared surplus and posted to Manarcaud Post Office with effect from 24.12.2008. He, therefore, requested to invalidate his said transfer and to retain him at Amayannur itself.

3. The respondents have filed a reply stating that the applicant was retrenched on account of the re-transfer of delivery area of Amayannur Post Office which was attached to Malam Post Office earlier. They have also denied the applicant's contention that the 5th respondent who was posted as GDSMD Amayannur was his junior in the gradation list. On the other hand he was posted as GDSMD Amayannur, in, furtherance of a policy adopted by the Department to abolish all the GDS Messenger Posts. The applicant was posted to Malam Post Office together with his delivery area for restructuring the man power of Amayannur Post Office. When



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said area attached to Malam Post Office was brought back to Amayannur Post Office as a result of the review of the delivery work load of Amayannur Post Office as well as the area that was transferred to Malam Post Office, the department found that the delivery work of Amayannur Post Office could be done conveniently by utilising the existing two GDSs there. They have also relied upon the instructions issued by the Postal Directorate in letter No.43-37/85-Pen dated 29.1.1985, according to which, the services of the incumbent of the post is to be dispensed with and not the junior most EDA of the office as advocated by the Union.

4. We have heard Shri.V.Sajith Kumar for the applicant and Shri.A.D.Raveendra Prasad,ACGSC for the respondents. The fact of the matter is that originally the Amayannur Post Office has three GDSMDs. The applicant was the senior most among them. When the area under the charge of the applicant consisting of (1) Vellimunnu-Thoothoddy-Pereppuram Orarakkal Kurisu Jn-Karunayamlokm Hospital Jn. (2) Chappattu Area (3) Lakshamveedu Colony (Mahime Colony) from the Amayannur EDSO was transferred and attached with the Malam Post Office, automatically the applicant was made part of the Malam Post Office. When the aforesaid area was later returned to the Amayannur Post Office, the respondents ought to have brought back the applicant to the Amayannur EDSO Post Office. As the review of the work load of Amayannur EDSO conducted by the respondents revealed that the entire delivery work could be managed by two persons, the respondents should have retrenched the junior most GDSMD among them. It is not disputed by the respondents that the applicant was the senior most and the 5th respondent was junior most among them. Just because the applicant has



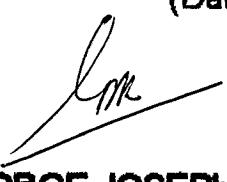
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come back to the Amayannur Post Office from the Malam Post Office, he could not have been considered by the respondents as surplus and retrenched him. The principle of retrenchment demands that the junior most person shall go first. Accordingly, the respondents ought to have retrenched Shri.C.V.John, GDSMD, Amayannur, who was the 5th respondent in this case.

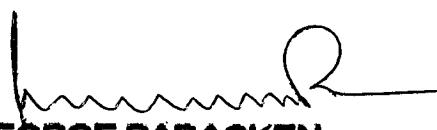
5. Even though Shri.C.V.John, the 5th respondent, was duly served with a copy of this OA he has not chosen to represent his case before this Tribunal.

6. In the above facts and circumstances of the case, we allow this OA. Consequently the Annexure A-1 memo dated 15.12.2008 is quashed to the extent that it declared the applicant as the retrenched GDSMD and transferred him to Manarcaud as GDSMD II against a newly created post. The respondents shall, therefore, re-transfer the applicant as GDSMD, Amayannur EDSO and treat the 5th respondent as the retrenched GDSMD and to give posting accordingly. Necessary orders in this regard shall be issued by the 3rd respondent within a period of one month from the date of receipt of a copy of this order. There shall be no order as to costs.

(Dated this the 1st day of February 2010)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER