

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.295/06

Tuesday this the 28th day of November, 2006

CORAM

Hon'ble Mrs. Sathi Nair, Vice Chairman
Hon'ble Mr. George Paracken, Judicial Member

Smt.Lalitha J. Lukose, aged 48 years
D/o J. Lukose,GDSMC, Perumkulam
Kottarakara Sub Division,
Kollam Division
residing at Pazhavoor Veedu,
Thekkumchira,
Puthoor PO, Kottarakara PO
Kollam.

.....Applicant

(By Advocate Mr. Shafik M.A)

V.

- 1 Union of India, represented by
Chief Postmaster General,
Kerala Circle, Trivandrum.695033.
- 2 The Senior Superintendent of Post Offices
Kollam Division, Kollam.
- 3 The Sub Divisional Inspector,
Kottarakara Sub Division
Kollam.Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

The application having been finally heard on 13.11.2006, the Tribunal
on 28.11.2006 delivered the following:

ORDER

Hon'ble Mr. George Paracken, Judicial Member

This OA has been filed praying for a declaration that the applicant is
entitled to join the post of Gramin Dak Sevak Sub Post Master (GDS SPM),
Kizhakketheruvu Post Office consequent upon her appointment against the

[Signature]

said post vide Annexure.A2 Memo dated 18.1.2006 and permit her to continue in that post. It reads as under:

"In accordance with the orders contained in CPMGs letter No. EST/13/2283 dated 14.11.05, conveyed vide SSPOs, Kollam Dn. Lr.No.A/150 dated 13.12.05 and B3/Bo/158 dated 13.1.06 Smt. Lalitha J.Lukose, GDS MC, Perumkulam is hereby redeployed and posted as GDS SPM, Kizhakketheruvu. The post of GDS MC Perumkulam stands abolished. In this connection the following mail arrangements are also ordered.

1. Mail conveyance of Pallickal-Kottarakkara HO is entrusted to GDS MP Pallickal on both ways.
2. Mail conveyance of Perumkulam is entrusted to GDS MD Perumkulam in the morning and to GDS BPM Perumkulam in the afternoon.

The TRCA of GDS MD Perumkulam and GDS MP Pallickal shall remain unchanged. Combined duty allowance may be paid to BPM Perumkulam for mail conveyance. All the above arrangements will come into effect from 21.1.2006."

2 The brief background of the case is that the applicant was initially engaged in the department of posts as a Part Time Sweeper at Pallickal Post Office. She was subsequently appointed as GDS MC (Gramin Dak Sevak Mail Carrier) Perumkulam with effect from 12.5.2003 vide Annexure. A1 order dated 8.5.2003 which reads as follows:

"Smt. Lalitha J Luckose PTS Pallickal is hereby appointed as the GDS MC Perumkulam w.e.f. 12.5.2003. She shall be paid such allowances admissible from time to time.

Smt. Lalitha J.Lukose shall clearly understand that her appointment as GDS MC Perumkulam shall be in nature of contract liable to be terminated by the undersigned by notifying the order in writing and that the contract and service shall also be governed by the Gramin Dak Sevak (Conduct and Employment) Rules, 2001 as amended from time to time.

If these conditions are acceptable to her she should communicate her acceptance in the enclosed form."



While she was discharging her duties in the aforesaid capacity, the regular incumbent in the post of GDS SPM, Kizhakketheruvu retired on superannuation in December, 2005. As per the policy of the department on combining of posts under the orders of the first respondent, namely, the Chief Post Master General, Kerala Circle, Trivandrum, the post held by the applicant, namely, GDS MC, Perumkulam was abolished and she was re-deployed as GDS SPM, Kizhakketheruvu. The duties of the applicant as GDS MC, Perinkulam was entrusted to GDS MD, Perumkulam vide the said Annexure A2 order dated 18.1.2006 which is the subject matter of this O.A. The complaint of the applicant is that in spite of the aforesaid Annexure A2 order issued way back on 18.1.2006, she was not relieved from the post of GDS MC, Perinkulam and the respondents were not taking any steps to permit her to join the re-deployed post of GDS SPM, Kizhakketheruvu. She has, therefore, made the Annexure A3 representation dated 10.2.2006 stating that though she was directed to take charge as GDS SPM, Kizhakketheruvu vide the Annexure A2 letter dated 18.1.2006 with effect from 21.1.2006 after abolishing her post of GDS MC, Perumkulam and she was willing to take charge of the said post, yet the respondents themselves have not been taking any action for the compliance of those directions.

3 The respondents in their reply have submitted that the post of GDS SPM, Extra Departmental Sub Post Office became vacant from 20.7.2005 due to the discharge of the incumbent of the post from service on attaining the age of 65 years. The third respondent, namely, the Sub Divisional Inspector, Kottarakkara Sub Division suggested the re-deployment of the applicant after abolishing the post of GDS MC, Perinkulam which she was



holding and to re-distribute her duties to three other GDS namely, GDS MP, Pallickal, GDS MD, Perinkulam and GDS BPM, Perinkulam. This arrangement was ordered by Annexure.A2. One of the affected officials namely, Smt. Radhamani Amma, GDS MP, Pallickal who had to shoulder the additional work because of the re-arrangement of duties had made a representation on 28.3.2006 that she is 53 years old and is an asthma patient and is already overloaded and it is not possible for her to travel 8 kms a day by foot to convey the mail. She has also laid her claim to the post of GDS SPM, Kizhakketheruvu on the plea that she is more qualified and senior to the applicant. Therefore, the respondents kept the arrangement ordered in Annexure.A2 letter in abeyance and later reviewed. According to the respondents, they noticed that the post of GDS MC Perumkulam is having a workload of 3 hrs 7 minutes and therefore there is full justification to retain it. Accordingly, the earlier suggestion to abolish the said post was found to be erroneous and the Respondent No.2 vide Annexure.R2 letter dated 17.5.2005 decided to keep the earlier proposals for redistribution of the works among the GDS in abeyance. The said respondent has also sent a revised proposal to the Circle Office on 27.4.2006 to treat the said proposal as cancelled and to accordd sanction for filling up the post of GDES SPM, Kizhakketheruvu by resorting to direct recruitment. The respondents have also denied the allegation of the applicant that the non-implementation of the impugned Annexure.A2 order was due to the interference of the union.

4 The applicant in her rejoinder has again submitted that the respondents have not taken any steps to implement the Annexure.A2 order in spite of the directions issued by the first respondent on two occasions.



She has made a specific averment that the second respondent who had filed the reply statement is trying to induct another candidate of his choice and it was due to this malafide reason, the Annexure.A2 order has been kept in abeyance. The applicant has also pointed out that the reasons stated for keeping the Annexure.A2 order in abeyance is an after thought as the representation by Smt. Radhamani Amma is dated 28.3.2006 which is close to three months after the Annexure.A2 order was issued. The applicant submitted that it is due to the vested interest of the third respondent that she is not being permitted to join as GDS SPM, Kizhakketheruvu and it is raising unnecessary objections.

5 The respondents have submitted an additional reply statement enclosing therewith a copy of the letter dated 9.6.03 from the Chief Post Master General, Kerala Circle, Trivandrum to the respondent No. 2, namely, the Senior Superintendent of Post Offices, Kollam Division to keep the proposal for filling up the vacant post of GDS SPM, Kizhakketheruvu pending till a decision of this Tribunal in this matter. They have also submitted that the applicant has no cause for grievance as there is no intention on the part of the respondents to abolish her post and she has no legal right to stake claim for the post of GDS SPM, Kizhakketheruvu.

6 We have heard Advocate Shri Shafik MA for the applicant and Advocate Shri Thomas Mathew Nellimootil for the respondents. We have also perused the records relating to the issuance of Annexure.A2 order dated 18.1.2006. The sequence of events in this case do not support the contentions of the respondents. The applicant was re-deployed and posted as GDS SPM, Kizhakketheruvu on 18.1.2006 vide the Annexure.A2 letter. It was admittedly based on the policy of the department for combining the



posts, it was stipulated in the Annexure.A2 order itself that the consequent re-distribution of work and other arrangements will come into effect from 21.1.2006. Admittedly, there was no reason or occasion for the respondents to reconsider the said Annexure.A2 order after 21.1.2006. In the normal course the applicant's re-deployment as GDS SPM, Kizhakkethruvu should have taken effect from 21.1.2006 itself. The reason given by the respondents for non-implementation of the order with effect from 21.1.2006 was that one of the affected persons, namely, Smt.Radhamani Amma, GDS MP, Pallickal has made a representation against the redeployment and staked her claim for the post of GDS SPM, Kizhakketheruvu and, therefore, they have reconsidered the matter. This reason is absolutely unconvincing and wrong in as much as Smt.Radhamani Amma made her representation only on 28.3.2006. The respondents have not given any explanation as to why the Annexure.A2 order remained unimplemented for more than 2 months from 21.1.2006 to 28.3.2006. Obviously the reason given by the 2nd respondent for the non-implementation of the Annexure.A2 order is not true. No doubt there would arise unforeseen circumstances compelling the department to review their earlier decisions in the best interest of administration. From the facts of the case as presented before this Tribunal it is seen that the Respondent No.2 has denied the benefit of the Annexure. A2 order dated 18.1.2006 to the applicant not because of any genuine administrative reasons but for certain extraneous unexplained reasons. We, in these circumstances, direct the Respondent No.1, namely, Chief Post Master General, Kerala Circle, Trivandrum to look into this case purely from the administrative point of view and to take an appropriate decision in the matter and communicate

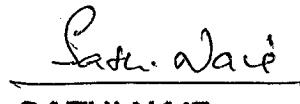


the same to the applicant within a period of two months from the date of receipt of this order. There shall be no order as to costs.

Dated this the 28th day of November, 2006



GEORGE PARACKEN
JUDICIAL MEMBER



Sathi Nair
SATHI NAIR
VICE CHAIRMAN

S