

A

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 263/2003, OA 264/2003, OA 265/2003, OA 306/2003
OA 307/2003, OA 309/2003, OA 310/2003, OA 311/2003
OA 312/2003, OA 313/2003, OA 314/2003, OA 316/2003
OA 317/2003 and OA 318/2003

Monday, this the 14th day of July, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

OA No. 263/2003

1. Rakesh JN,
S/o Sri Balan KK,
Postal Assistant, Kadalundi Nagaram (PO),
Tirur Division, Tirur,
now residing at 'Kousthubam',
Kadalundi Nagaram, Tirur.Applicant
[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Tirur Division, Tirur.
2. Superintendent of Post Offices,
Vadakara Division, Vadakara-673 101
3. Postmaster General,
Northern Region, Calicut.
4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.Respondents
[By Advocate Mr. T.A. Unnikrishnan, ACGSC]

OA 264/2003

1. G. Gopakumar,
S/o Sri K. Gopi,
Postal Assistant, Tirur HPO-676 101,
Tirur Division, Tirur,
now residing at Room No.207,
Tarriff Hostel, Tirur.Applicant
[By Advocate Mr. O.V. Radhakrishnan]

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Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Senior Superintendent of Post Offices, Trivandrum North Division, Trivandrum.
3. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
4. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

.... Respondents

[By Advocate Mr. S.K. Balachandran, ACGSC]

OA 265/2003

1. Shiffy Mol P.J,
D/o Mr P.F. John,
Postal Assistant, Tirur Head Post Office,
Tirur Division, Tirur,
now residing at SN Vanitha Sadan,
Thrikkandiyoor PO, Tirur-4
2. Anjali K.R,
D/o Mr K. Rajan,
Postal Assistant, Mannamukku PO,
now residing at C/o Padmavathi,
Attathara House, Changaramkulam, PO Nannam.
3. A.P. Rumila,
D/o Mr A.K. Pavithran,
Office Assistant, Office of the
Superintendent of Post Offices,
Tirur Division, Tirur-4
now residing at SN Vanitha Sadan,
Thrikkandiyoor PO, Tirur-4
4. Sree Rani R,
D/o Sri S.P. Ratna Baliga,
Office Assistant, Office of the
Superintendent of Post Offices,
Tirur Division, Tirur-676 104,
now residing at Thrikkandiyoor, Tirur.
5. K.P. Sreerekha,
D/o Sri A.P. Damodara Pisharadi,
Postal Assistant, Tirur HPO,
Tirur Division, Tirur - 676 101
now residing at 'Krishna Prabha',
Thrikkandiyur PO, Tirur.

.... Applicants

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.

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2. Senior Superintendent of Post Offices, Ernakulam Division, Ernakulam.
3. Postmaster General, Central Region, Kochi.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi. Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

OA 306/2003

1. Bini K,
D/o Sri P. Kesavan Nair,
Postal Assistant, BP Angadi PO,
Tirur Division, Tirur,
now residing at SN Vanitha Sadan,
Thrikkandiyoor PO, Tirur-4 Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Senior Superintendent of Post Offices, Aluva Division, Aluva - 673 101
3. Postmaster General, Central Region, Kochi.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi. Respondents

[By Advocate Mr. R. Madanan Pillai, ACGSC]

OA 307/2003

1. Shaju K,
S/o Sri K. Narayanan,
Postal Assistant, Tirunavaya PO - 676 301,
Tirur Division, Tirur,
now residing at CP House, Tirunavaya PO Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.

2. Superintendent of Post Offices,
Kannur Division, Kannur - 670 001
3. Postmaster General,
Northern Region, Calicut.
4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi. Respondents

[By Advocate Mr. M. Rajendrakumar, ACGSC]

OA 309/2003

1. Bushra Beegum A,
D/o Sri A. Kunhipocker,
Postal Assistant, Vengara PO,
Tirur Division, Tirur,
now residing at Ambali House,
Varangode, PO Downhill - 676519 Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Tirur Division, Tirur.
2. Superintendent of Post Offices,
Manjeri Division, Manjeri - 673 101
3. Postmaster General,
Northern Region, Calicut.
4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi. Respondents

[By Advocate Mr. K.R. Rajkumar, ACGSC]

OA 310/2003

1. Mohandas M,
S/o Sri Kuttisankaran Nair M,
Postal Assistant, Kottakkal PO,
Tirur Division,
now residing at C/o Sri CV Mani Iyyer,
'Krishnapadam', Pandamangalam,
Kottakkal. Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Senior Superintendent of Post Offices, Palakkad Division, Palakkad-678 001
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

.... Respondents

[By Advocate Mr. K. Shri Hari Rao, ACGSC]

OA 311/2003

1. R. Rajeswari,
D/o Sri T. Radhakrishnan,
Postal Assistant, Tirur HPO-676 301,
Tirur Division, Tirur,
now residing at SN Vanitha Sadan,
Thrikkandiyoor PO, Tirur-4

.... Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Superintendent of Post Offices, Ottapalam Division, Ottapalam-679 101
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

.... Respondents

[By Advocate Mr. K. Kesavankutty, ACGSC]

OA 312/2003

1. K.K. George,
S/o late K.V. Kurian,
Postal Assistant, Tirur HPO,
Tirur Division, Tirur,
now residing at Kumbidiyammakkal House,
Muthut, Tirur PO, Tirur-1

.... Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Superintendent of Post Offices, Kannur Division, Kannur - 670 001
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi. Respondents

[By Advocate Mr. T.A. Unnikrishnan, ACGSC]

OA 313/2003

1. C. Beena,
D/o P. Chandrasekharan,
Postal Assistant, Kottakkal PO,
Tirur Division,
now residing at Athira House,
Kottakkal PO. Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Senior Superintendent of Post Offices, Palakkad Division, Palakkad-678 001
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi. Respondents

[By Advocate Mr. C.B. Sreekumar, ACGSC]

OA 314/2003

1. Megana P.K,
D/o Sri Kuttan P.V,
Postal Assistant, Perumpadappu Post Office,
Tirur Division, Tirur,
now residing at Kalarikkal House,
Kallur PO, Vadakkekad Via.

2. Lakshmi Narayanan,
D/o Major V.N. Pillai (Retd),
Postal Assistant (on deputation),
Perumpadappu PO, Malappuram,
now residing at Mootheri House,
PO Eramangalam.

....Applicants

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Tirur Division, Tirur.

2. Superintendent of Post Offices,
Irinjalakkuda Division, Irinjalakkuda.

3. Postmaster General,
Central Region, Kochi.

4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.

5. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.

....Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

OA 316/2003

1. P. Maneesha,
D/o Sri V.K. Vijayanarayanan
Postal Assistant, Ponnani Head Post Office,
Tirur Division, Tirur,
now residing at KT Quarters,
Thuyyam, Edappal - 679 576

2. Sindhu N.K.,
D/o Sri N.N. Krishnan,
Postal Assistant, Ponnani Head Post Office,
Tirur Division, Tirur,
now residing at KT Quarters,
Thuyyam, Edappal - 679 576

3. Sunitha K.K.,
D/o late K.N. Koran,
Postal Assistant, Ponnani Nagaram Post Office,
Tirur Division, Tirur,
now residing at KT Quarters,
Thuyyam, Edappal - 679 576

....Applicants

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Tirur Division, Tirur.

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2. Senior Superintendent of Post Offices, Thrissur Division, Thrissur.
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

.... Respondents

[By Advocate Mr. M.R. Suresh, ACGSC]

OA 317/2003

1. C. Beena,
D/o Sri Balan,
Postal Assistant, Vattamkulam PO,
Malappuram,
now residing at Vattamkulam,
Malappuram District.

.... Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices, Tirur Division, Tirur.
2. Senior Superintendent of Post Offices, Thrissur Division, Thrissur.
3. Postmaster General, Northern Region, Calicut.
4. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

.... Respondents

[By Advocate Mr. T.C. Krishna, ACGSC]

OA 318/2003

1. Bijaly S,
D/o Sri P.M. Sundaran,
Postal Assistant, Tirur HPO
[Presently working as Postal Assistant
attached to Technology, Office of the PMG,
Northern Region, Calicut (On deputation)]
now residing at Pullattuparambu,
Edakkadu PO, Calicut-5

.... Applicant

[By Advocate Mr. O.V. Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Tirur Division, Tirur.
2. Senior Superintendent of Post Offices,
Calicut Division, Calicut.
3. Postmaster General,
Northern Region, Calicut.
4. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
5. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.

....Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The applications having been heard on 14-7-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The facts, circumstances and questions of law involved in all these cases being almost the same, as agreed to by the counsel of the applicants as also the respondents in these cases, these cases are being disposed of now finally by this common order.

2. As the facts remain in a narrow compass, it is not necessary to elaborately state the facts in individual cases. Suffice to say that all the applicants in these cases are persons whose transfers under Rule 38 of the P&T Manual Vol.IV have been approved by the competent authority in the year 2001 and that their grievance is that the orders of transfer are not being implemented, with the result they are remaining in Tirur Division and are likely to lose seniority if their transfer to the respective Divisions to which their transfers have been approved are unduly delayed, especially when the process of direct recruitment in the respective Divisions have already

been commenced. It is alleged in the application that there is absolutely no reason for not giving effect to the orders of the competent authority under Rule 38 for transfer of the applicants and that non-implementation of the same is arbitrary, irrational and liable to be interfered with. With these allegations the applicants have filed these applications for a declaration that they are entitled to be relieved on the basis of the transfer under Rule 38 and posting to the respective Divisions and seeking appropriate reliefs in that regard.

3. Respondents in their reply statements filed in OA.No.263/03 and OA.No.264/03, which have been adopted by the respondents in other cases too, have indicated, inter alia, that the reason why the applicants have not been relieved pursuant to the orders under Rule 38 in their favour is that there is a gross insufficiency in the Postal Assistants cadre in Tirur Division and if all the applicants are relieved from Tirur Division at a stretch, it would adversely affect the effective functioning of the Division and that only after securing effective functioning of the Department in Tirur Division, the transfers already granted can be implemented in a phased manner. In the reply statement filed on behalf of respondents 1 to 3 in OA.No.263/03 it has been stated that the direct recruitment made after 27-8-2001 would not affect the seniority of the applicant eventhough his relief from Tirur Division is delayed. In the reply statement filed by the Chief Postmaster General, the 4th respondent in OA.No.264/03, also it has been specifically stated that the vacancies against which the applicants have been transferred will not be filled by the Department by direct recruitment. The same is the stand in

other cases too irrespective of the difference in dates and places, as the respondents have adopted the reply statements filed in OA.No.263/03 and OA.No.264/03 in the other cases by statements made by the counsel for the respondents today at the Bar.

4. The question now to be answered is whether the applicants are entitled to an order directing the respondents to give effect to the orders of transfer under Rule 38 of the P&T Manual Vol.IV immediately or not.

5. The situation which emerges from the facts stated in the pleadings is that on account of the vacancy position in Tirur Division and the policy decision of the Government of India not to fill up more than 1% of the vacancies arising, it would not be possible to fill up all the vacancies in Tirur Division arising out of the Rule 38 transfer also immediately and therefore, if all the orders of transfers in favour of the applicants under Rule 38 are implemented at a stretch, Tirur Division would be adversely affected in the efficiency of performance. The orders of transfer under Rule 38, therefore, has got to be implemented only to suit the effective functioning of Tirur Division and other respective Divisions to an optimum level. Being aware of the constraints of the administration and the grievance of the individual applicants, the counsel on either side agree that the applications may be disposed of directing the respondents to give effect to the orders of transfer under Rule 38 of the P&T Manual Vol.IV in favour of the applicants in these cases in a phased manner, looking into the functional efficiency of Tirur Division as also the Divisions to which the applicants have been ordered to

be transferred, without affecting the seniority of the applicants in the transferred stations vis-a-vis those recruited after 27-8-2001 on account of the delay in implementation of the order as has been undertaken by the respondents in the reply statements, without undue delay.

6. In the light of the above submissions made by the learned counsel on either side and in the interests of justice and in public interest, all these Original Applications are disposed of directing the respondents that the orders of transfer under Rule 38 of the P&T Manual Vol.IV in the cases of the applicants in these cases shall be given effect to in a phased manner, securing optimum efficiency of functioning in Tirur Division as also the respective Divisions to which the individual applicants have been ordered to be transferred, protecting the seniority of the applicants as against recruits appointed in the respective Divisions after 27-8-2001 as Rule 38 transfers have been ordered against identified vacancies which the respondents have agreed would not be filled by direct recruitment, without undue delay. To avoid unnecessary litigations, direct recruitment if any made after 27-8-2001, the applicants should be informed accordingly by the official respondents. The above direction shall not stand in the way of giving effect to orders on mutual transfer. No order as to costs.

Monday, this the 14th day of July, 2003

Sd/-
(A.V.HARIDASAN)
"ICE CHAIRMAN"