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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.311/04

Monday this the 14th day of March 2005

C O R A M :

**HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER**

K.N.Ammini,
D/o.Narayanan Nair,
Gramin Dak Sevak Branch Postmaster,
Poonchola BO, Pottassery S.O.,
Mannarghat Sub Division, Ottappalam Division,
Keezhethu House, Poonchola BO, Ottappalam.

..Applicant

(By Advocate Mr.O.V.Radhakrishnan)

Versus

1. Superintendent of Post Offices,
Ottappalam Division, Ottappalam – 679 101.
2. Superintendent of Post Offices,
Kannur Division, Kannur – 670 001.
3. Postmaster General, Northern Region,
Kerala Circle, Calicut – 673 011.
4. Chief Postmaster General, Kerala Circle,
Thiruvananthapuram.
5. Director General of Posts,
Dak Bhavan, New Delhi.
6. Union of India represented by its Secretary,
Ministry of Communications, New Delhi.

..Respondents

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

This application having been heard on 14th March 2005 the Tribunal
on the same day delivered the following :-

ORDER

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

The applicant working as Gramin Dak Sevak Branch Postmaster,
Poonchola BO in account with Pottassery SO in Mannarghat Sub Division

under Ottappalam Postal Division coming to know that a vacancy was likely to arise in the office of the Gramin Dak Sevak Branch Postmaster, Koottumugham Branch Post Office under Sreekandapuram Sub Post Office in Kannur Postal Division submitted a request to the 2nd respondent for transfer to that post. The applicant was told by Annexure A-3 order dated 9.10.2003 that according to the latest ruling received from DG Posts, New Delhi, GDS are not eligible for transfer. The applicant submitted another request to the 3rd respondent in reply to which the applicant was served with Annexure A-4 letter dated 21.10.2003 again informing that GDS are not entitled to transfer. Aggrieved the applicant has filed this application seeking to set aside the impugned orders, for a declaration that the applicant is eligible and legally entitled to seek a transfer from the post of GDS BPM, Poonchola in Ottappalam Postal Division to GDS BPM, Koottumugham in Kannur Postal Division and for a direction to the 2nd respondent to consider the candidature of the applicant for transfer to the post of GDS BPM Koottumugham.

2. The respondents resist the claim of the applicant on the ground that GDS (Conduct & Employment) Rules 2001 specifically contained a clause that there would be no transfer liability for GDS and that the applicant who is working in Ottappalam Postal Division is not entitled to claim transfer to Kannur Postal Division.

3. We have heard the learned counsel on either side. Shri.O.V.Radhakrishnan learned of the applicant inviting our attention to the order of the Tribunal in O.A.1057/99 decided on 2.4.2002 (Chellamma K.R. Vs. Postmaster General) wherein it was held that there is no embargo

in transfer of GDS from one Division to another, the only consequence being that the appointment made to another Division would be treated as a fresh appointment. He also brought to our notice that this decision of the Ernakulam Bench of the Tribunal had been upheld by the Hon'ble High Court of Kerala. Therefore the contention raised by the respondents that applicant is working in Ottappalam Postal Division is claiming for transfer to Kannur Division has no merit. The only question there is whether on account of the provision contained in GDS (Conduct & Employment) Rules 2001 that GDS would not have a transfer liability the request of the applicant for transfer to Kannur Postal Division cannot be considered. In a large number of cases this Bench of the Tribunal held that the transfer liability is different from a privilege of making a request for transfer and the provision in the rules that the GDS would not have transfer liability does not preclude the authority from considering a request for transfer. The amendment to the GDS (Conduct & Employment) Rules 2001 which prescribed that GDS shall not be transferred except in public interest having came into effect only on 1.9.2004 as stated by the learned counsel of the respondents, the respondents were not justified in turning down the request of the applicant for transfer without due consideration.

4. Learned counsel of the respondents brought to our notice that another person K.V.Lakshmi had filed O.A.396/04 for transfer to the same post and that this O.A is pending. The pendency of the Original Application does not stand in the way of this O.A being disposed of on the merits of the case. If K.V.Lakshmi in the said case is also similarly situated she may also have to be considered along with the applicant and similarly situated other persons who have applied.

5. In the result, in the light of the above facts the impugned orders are set aside. The respondents are directed to consider the request of the applicant for transfer to the post of GDS BPM Koottumugham on the basis of the observations made above along with requests of similarly situated persons, if any, and issue resultant orders within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 14th day of March 2005)


H.P.DAS
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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