

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.332/98

Friday this, the 22nd day of January, 1999.

CORAM:

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

1. K.N.Krishnan Kartha,  
Postman(BCR),  
Head Post Office, Alwaye.

2. K.V.Pappu,  
Postman(BCR),  
Head Post Office, Perumbavoor.

3. A.V.Varghese,  
Postman(BCR),  
Head Post Office, Alwaye.

..Applicant

(By Advocate Sri O.V.Radhakrishnan)

vs.

1. Senior Superintendent of Post Offices,  
Alwaye Division, Alwaye.

2. Postmaster General,  
Central Region, Kochi-11.

3. M.K.Kunjappan,  
Extra Departmental Branch Postmaster,  
Plamudy, Alwaye Postal Division,  
Alwaye.

4. Shibi Emmanuel,  
Extra Departmental Branch Postmaster,  
Vadakode, Alwaye Postal Division,  
Alwaye.

..Respondents

(By Advocate Mr.Govindh K.Bharathan SCGSC(R1 & 2)  
Mr.Shafik M.A.(R3 & 4)

O R D E R

The applicants 1 to 3 who were working as Postmen, were on completion of 26 years of service placed in the Higher grade of Rs.975-1660 with effect from 1.1.95, 1.7.95 and 1.1.96 and are at Sl.Nos.8, 11 and 12 in the gradation list of Higher Grade Postmen as on 1.7.97. While they were left with less than one year to retire on superannuation, as the age of superannuation was 58, by order dated 24.2.98(Annexure A4) the first respondent was

transferred and posted as Mail Overseer, Muvattupuzha sub division, and by order dated 2.1.98 applicants 2 and 3 were transferred and posted as Mail Overseer , Perumbavoor sub division. The applicants 2 and 3 made representation seeking cancellation of the posting and permission to continue in the cadre of Postmen . The second applicant was told by the Senior Superintendent of Post Offices, Aluva vide his order dated 27.1.98 (Annexure A7) that according to D.G's order, BCR Postmen have to be posted as Mail Overseer, that juniormost officials are posted as Mail Overseer as the seniors expressed unwillingness and to ensure that natural justice is given to them and that if he was unwilling to accept the posting he had to decline BCR promotion and the benefits. To their repeated representations protesting against their posting as Mail Overseer, which work they felt they may not be competent to perform, the applicants 2 and 3 were again told by order dated 14.1.98(Annexure A9) that if they did not accept the posting as Mail Overseers, they had to give undertaking declining promotion under BCR forgoing the BCR benefits. Referring to the representation of the third applicant to the second respondent the first respondent wrote a letter to the Post Master, Aluva on 26.2.98(Annexure All) that the Post Master General had intimated that all the supervisory Postmen posts are to be filled up by BCR officials and if BCR officials do not want to go as M.O. they would have to decline BCR promotion. Aggrieved by this, the applicants have filed this application. According to the applicants, the post of Mail Guard being in a separate cadre to which the appointments are to be made by promotion from the cadre of Postmen, the impugned

orders Annexures A4 and A5 by which the applicants who are Postmen are transferred and posted as Mail Overseer are unsustainable in law.

2. The respondents refute the claim of the applicants. According to them those Postmen who were promoted to the Higher grade under BCR Scheme have to be utilised for holding the supervisory posts.

3. Shri O.V.Radhakrishnan, the learned counsel of the applicant invited our attention to sub clause v of Rule 238 of P&T Manual Volume IV which details the duties and prescribes the qualification required to hold the post to show that the post of Mail Overseer is functionally superior to that of Postman and requires higher qualification. The clause (v) of Rule 238 reads:

"(v) Overseer - As an overseer must constantly travel over his beat, he must be a man of strong constitution and active habits. He should ordinarily be a native of the district in which he is employed, so that his local knowledge will assist him in properly supervising and controlling the road establishment. He must be able to read and write English and the local Indian language of the district."

He then referred us to Rule 281 of the P&T Manual, Volume IV which state that appointments to the post of Branch Post Master, Overseers etc. have to be made by promotion of Postmen and Village Postmen and that appointing authority can pass over seniors whom he may find not fit. The learned counsel then stated that as the applicants had only been placed in the Higher grade of Rs.975-1660 on completion of 26 years of service but not promoted as Mail

Overseers which post is in a separate cadre, the transfer of the applicants from the lower post of Postmen to the higher post of Mail Overseer without a promotion is illegal and therefore these orders deserve to be set aside. The learned Senior Central Govt. Standing Counsel met the argument by pointing out that the post of Mail Overseer carry the same pay scale of Rs.975-1660, and that therefore the post of Higher grade Postman and Mail Overseer are interchangeable. He argued that in accordance with clause (x) of para 2 of the letter dated 11.10.1991 containing the scheme the supervisory duties till then performed by LSG supervisors were to be performed by those who have been promoted to HSG.II on completion of 26 years of service and that as this principle was made applicable to Postman/Mail Guard also as per letter of D.G, Posts dated 30.3.92 (Annexure R-2(A) clause (iv) of paragraph 2, there is no merit in the applicants claim that they are not liable to be posted as Mail Guard which is a supervisory post. I find considerable force in the argument of the learned counsel of the applicants. There can be instances where a higher post carry the same pay scale of a lower post atleast for sometime. Though normally a post carrying higher responsibilities should have a better pay scale, there can be some rare cases where a higher post and lower post carry same pay scale. Though the Postman who on completion of 26 years of service is placed in the higher pay scale of Rs.975-1660, unless he is promoted to the post of Mail Overseer by the competent authority in accordance with the provisions of Rule 281 of the P&T Manual Vol.IV considering the suitability bearing in mind what is mentioned in clause (v) of Rule 238 remains a Postman.

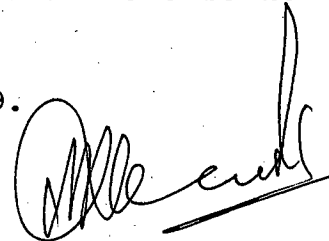
Unless the post of Higher grade Postman is equated to that of Mail Overseer and the posts made interchangeable, I am of the considered view that a Higher grade Postman cannot be directly transferred as Mail Overseer which is a higher post in another cadre. I find it difficult to accept the argument of the learned Central Govt. Standing Counsel that equating the pay scale amounts to equating the post. A postman of weak constitution and not proficient in reading and writing English though can be granted the Higher grade under the BCR scheme would not be eligible for promotion as Mail Overseer. Therefore, I am of the considered view that a Higher grade Postman under the BCR scheme can be posted as a Mail Overseer only on his promotion to that grade in accordance with paragraph 281 of the P&T Manual, Vol.IV and that therefore the impugned orders (Annexures A4 and A5) transferring the applicants who are Higher grade Postmen as Mail Overseers are unsustainable.

4. In Annexures A7, A9 and All orders, the respondent have taken a stand that as senior BCR Higher grade Postmen have declined to accept posting as Mail Overseers, to ensure natural justice to them, the juniormost are transferred as Mail Overseers, and that if the applicants did not accept the posting, they should decline BCR promotion and forgo the consequential benefits. This stand of the respondents is arbitrary, unreasonable and not supported by any rules. Natural justice is not to be denied to anyone against whom any order detrimental to his interest is to be made. There cannot be discrimination in that regard between seniors and juniors. Further the applicants have already been placed in the Higher Grade with effect from 1.1.95, 1.7.95 and 1.1.96 respectively. They were not placed in that grade on

their undertaking that they would accept posting as Mail Overseers. Therefore the respondents cannot insist that if the applicants do not accept the posting, they should give an undertaking that they would forgo the BCR promotion and benefits. Moreover once the applicants had already been promoted to Higher Grade, they cannot now be asked to decline promotion .

5. In the result in the light of the above discussion, I allow the application and set aside the impugned orders Annexures A3, A4, A5, A7, A9 and A11 and direct the respondents to allow the applicants to continue as Postmen till they are promoted, as per Rules. There is no order as to costs.

Dated the 22nd January, 1999.



A.V.HARIDASAN  
VICE CHAIRMAN

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### LIST OF ANNEXURES

1. Annexure A3: True copy of the letter No.88/23/II dated 23.2.98 alongwith true extract of the Gradation List of Higher Grade Postman of the 1st respondent.
2. Annexure A4: True copy of the Memo No.88-2/Ch-III dated 24.2.98 of the 1st respondent.
3. Annexure A5: True copy of the Memo No.88-2/Ch.III dated 2.1.98 of the 1st respondent.
4. Annexure A7: True copy of the Memo No.88-II/Ch.III dated 27.1.98 of the 1st respondent.
5. Annexure A9: True copy of the Memo No.88-II/Ch-III dated 14.1.98 of the 1st respondent.
6. Annexure R2(a): A true copy of the letter No.4.4/92-SPB-II dated 30.3.92 of the Director General, New Delhi.
7. Annexure A11: True copy of the Memo No.88-II/Ch-II dated 26.2.98 of the 1st respondent.

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