

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 360 of 2007

Tuesday, this the 21st day of August, 2007

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

Stephen K.M.,
Office Superintendent,
Group Centre, C.R.P.F,
Pallipuram, Permanently of
Kochuveetil Kizhekkethil,
Erezha North, Chettikulangara.

... Applicant.

(By Advocate Mr. George Varghese Perumpillikuttyil)

v e r s u s

1. Union of India represented by
The Secretary to Government of India,
Ministry of Home Affairs, New Delhi.
2. Director General of Police,
Directorate General, Central Reserve
Police Force, C.G.O. Complex,
Lodhi Road, New Delhi.
3. The Deputy Inspector General of Police,
CRPF, Group Centre, Pallipuram. ... Respondents.

(By Advocate Mr. P.A. Aziz, ACGSC)

ORDER

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant in this case has challenged his promotion (as Administrative Officer) cum transfer order (Annexure A-1) to the extent that his transfer is illegal as he has just eight months for superannuation.

2. Last year, when the applicant apprehended that he would be shifted to J & K area, he challenged the same on the ground that he had not completed his full tenure and the same was allowed. Now that his tenure is over and he is promoted, in the absence of any slot to accommodate the applicant here in Pallipuram, the respondents have issued the impugned order of promotion cum transfer to Mizoram Sector.



3. The grounds for challenge of the impugned order include -

(a) that he had already served in the North Eastern Sector for more than a decade.

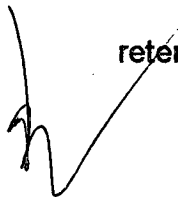
(b) There is a vacancy available at Pallipuram itself, where the applicant could be accommodated.

(c) The applicant having just a few months to superannuate, transfer at this juncture is not justified.

4. Respondents have contested the O.A. According to them, in view of certain policy decision having been taken not to fill up certain vacancies in all the Sectors, the vacancy that exists at Pallipuram is one which coming within the clutch of the above policy decision, there is no vacancy at Pallipuram where the applicant could be accommodated. The applicant is, however, at his liberty to forgo his promotion in accordance with the provisions of the Standing Orders.

5. Earlier, the counsel for the respondents submitted a detailed order rejecting the representation of the applicant for retention at Pallipuram in the promoted post. The said order dated 18-07-2007 has also been taken on record. The counsel for respondents, during the course of arguments, has also produced an order of this Tribunal in the case of one CV Gopi, Administrative officer, who stood transferred to Delhi from Pallipuram and in whose case through the order of the Tribunal, as an interim measure, the transfer is kept in abeyance. Therein the reason for challenge is that the applicant's daughter is a mentally challenged child and transfer of the applicant would unduly affect the health condition of the child.

6. Counsel for the applicant submitted that when provision exists for retention of individuals in the same station at the time when their date of




superannuation is fast approaching, the authorities could have relaxed the policy decision of keeping one post vacant. Forgoing promotion would have perpetual effect of depletion of higher pay during the career and corresponding higher pension during the post retirement period.

7. Arguments were heard and documents perused. One thing must be made clear. Service exigencies are to be given top most preference compared to individual convenience. The stipulation that individuals at the fag end of the career be not shifted is to facilitate such individuals to plan for their post retirement period, especially as to the place of resettlement and incidentally, records at a single place would avoid unnecessary delay in finalization of their pension and other terminal benefits. But this is not a vested right in the individual. Such a stipulation is only a facilitation and pitted against service exigencies, this stipulation sinks into oblivion.

8. If the decision of the respondents is analyzed, it would show that they have been unbiased in arriving at the decision. Transfer at the time of promotion is a regular practice. That has been followed in this case. Policy decision cannot be relaxed for the sake of one individual. Hence rejection to accede to the request of the applicant to accommodate him in the vacancy which, by a universal policy decision has to be kept vacant cannot be treated as unjustified. And, the applicant has the liberty of forgoing his promotion, in which event, he could well be here.

9. Thus, no legal flaw could be fastened in the action of the respondents to shift the applicant from Pallipuram. One aspect, however, has to be considered at this juncture. True, the applicant has to move out of Kerala. However, if vacancy exists in Delhi or other areas, where the applicant could be accommodated, the authorities could well consider the same. For, there is



substance in the argument of the applicant that he had already served for a substantial period of a decade plus in 38 years of his career at North Eastern Sector. It is trite knowledge that North Eastern Sector is a hard area and when admittedly for adequate period the applicant has served there, consideration may be given to post the applicant elsewhere. Again, processing of papers for payment of terminal benefits would be more easier and convenient at central places, compared to such remote areas. This is however, purely for the administrative authorities to consider and decide and it is their discretion, to be utilized, keeping in view the service exigencies. No legal right accrues to the applicant, nor can this Tribunal compel the authorities in this regard.

10. The OA is dismissed. However, the applicant be not relieved till 31st August, 2007. Meanwhile, the 2nd respondent may consider accommodating the applicant elsewhere for the reasons as stated in the preceding paragraph. The decision be communicated to the applicant before his relief. The applicant however need not have to wait for such a communication, in making his preparation to move out of Kerala. If IRLA system is not maintained and if papers for terminal benefits including pension are to be processed from the new duty station, the same shall be done within the time frame provided for in the Pension Rules and this transfer, it is made clear, cannot be treated as a reason for any delay in processing the pension papers of the applicant.

11. Registry to make available certified copy of this order within 24 hours of its pronouncement to enable Respondent No. 2 for action as stated above.

(Dated, the 21st August, 2007)


Dr. K B S RAJAN
JUDICIAL MEMBER

cvr.