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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 364 of 2003

Thursday, this the day of 17th March, 2005.

C O R A M :

*HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER*

K.K. Radhamony,
Alunilkumkalayil,
Vayyattupuzha P.O.,
Chittar-Seethathode Village,
Ranny Taluk - Working as a
Gramin Dak Sevak Mail Packer at
Thannithodu Sub Post Office.

(By Advocate Mr. Babu Cherukara)

... Applicant.

versus

1. Union of India represented by
The Secretary to Department of Posts,
Dak Bhawan, New Delhi.
2. The Superintendent of Post Offices,
Pathanamthitta Postal Division,
Pathanamthitta.

(By Advocate Mrs. K. Girija, ACGSC)

... Respondents.

ORDER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant while working as Gramin Dak Sevak Mail Packer (GDSMP, for short) at Thannithodu sought for transfer to the post of Gramin Dak Sevak Branch Post Master (GDSBPM, for short), Neeliplavu Branch Office in Pathanamthitta Post Office vide application dated 14.1.2003 (A/2) as per A1 notification issued by the second respondent.



The contention of the applicant is that the vacancy of the GDSBPM is to be filled up by way of transfer from the Extra Departmental Agents appointed prior to 24.4.2001 as per A/1 letter. The second respondent rejected the claim of the applicant by A7 impugned order which is under challenge. Aggrieved by A/7 order, the applicant has filed this O.A. seeking the following main reliefs:

- (a) *Order to set aside Annexure A7 order issued by the second respondent & calling for the records for the same;*
- (b) *order directing the respondents to complete the selection process as per Annexure A1 notification;*
- (c) *order to set aside Annexure A5 notification finding that when Annexure A1 notification is in force, the Annexure A5 will not stand.*

2. The respondents have filed a detailed reply statement contending that the claim of the applicant that she is entitled to be considered for selection as GDSBPM, Neeliplavu Branch as per A1 Notification, cannot be sustained on the basis of A8 letter. The impugned order A7 was passed on the basis of A8 letter which lays down the condition that there is no provision in the rules for transfer ^{of} Gramin Dak Sevaks. The applicant was selected and appointed as GDSMP, Thannithode in the pay scale of Rs. 1220-20-1600 on 6.5.1996 and he requested for transfer to the post of GDSBPM, Neeliplavu in the pay scale of Rs., 1600-40-2400 in exclusion of every other eligible candidate.

3. We have heard Shri Babu Cherukara, learned counsel for the applicant and Mrs. K. Girija, ACGSC, for respondents.

4. Learned counsel for the applicant submitted that since the applicant is in possession of the required qualification as also Annexure A/1 order is still in force, he got a better claim to be considered for the post of



GDSBPM, Neeliplauv. Learned counsel for the respondents, on the other hand, submitted that the impugned order A7 was passed on the basis of A8 letter which clearly says that there is no provision in the rules for transfer of Gramin Dak Sevaks who are selected and engaged for specific part-time jobs at specific places and are expected to have alternative/additional employment/source of income at the same place. The applicant cannot claim the transfer as a matter of right.

5. We have given due consideration to the arguments advanced by the respective parties and perused the material placed on record.

6. The applicant had earlier filed O.A.No. 124/2003 which was disposed of by this Tribunal vide order dated 20.2.2003 directing the second respondent therein to consider her request in pursuance of Annexure A1 circular dated 3.1.2003 and pass appropriate order. Accordingly, the respondents have passed the impugned order A7. The vacancy to which the applicant is seeking transfer, was fallen vacant with effect from 20.1.2003. The Tribunal considering the instructions then in force, observed that the claim of the applicant for transfer to another post could be considered. However, Hon'ble High Court of Kerala dealing with the similar point, in the case of Senior Superintendent of Post Offices v. Raji Mol, 2004 (1) KLT 183, has observed that "a person working on a lower post cannot claim that he has an indefeasible right to be appointed by transfer to a higher post to the exclusion of every other eligible candidate." In order to ascertain whether the E.D. Agent already working is eligible to be transferred to another post in the department, the scale of pay of the respective posts has to be considered. Admittedly, the applicant in this case is working as GDSMP at Thannithodu in the scale (TRCA) of Rs. 1220-20-1600 and he sought for transfer to the post of GDSBPM, Neeliplu Branch. The pay scale of GDSBPM is Rs. 1600-40-2400. Evidently, the transfer sought by the applicant is to an higher post. In the decision cited supra,



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Hon'ble high Court held that "In our view, a person working on a lower post cannot claim that he has an indefeasible right to be appointed by transfer to a higher post to the exclusion of every other eligible candidate. This is all the more so in a case where there is no rule specifically providing for appointment by transfer. In this situation, we are of the view that the claims of the respondents have to be considered only along with the other eligible persons who may be sponsored by the Employment Exchange or may otherwise apply for the post."

7. In the conspectus of the facts and circumstances and the ruling cited above, we do not find that the the applicant has an indefeasible right to be appointed by transfer to the post of GDSBPM, Neeliplauv, to the exclusion of every other eligible candidate. The O.A. being bereft of any merit is dismissed. No costs.

(Dated, the 17th March, 2005)

H. P. DAS

ADMINISTRATIVE MEMBER

K. V. SACHIDANANDAN
JUDICIAL MEMBER

cvr.