

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. NO. 364 OF 2008

Friday, this the 7<sup>th</sup> day of November, 2008.

**CORAM:**

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

P.Vahidabi

Senior Auditor

Pay & Accounts Office, Kavaratti

Residing at Pettambalam House,

Agatti

... Applicant

(By Advocate Mr. R.Sreeraj )

vs.

1. The Administrator  
UT of Lakshadweep, Kavaratti
2. The Secretary, General Administration & Service  
Administration of UT of Lakshadweep  
(Secretariat), Kavaratti
3. The Pay & Accounts Officer  
Pay & Accounts Office, Kavaratti ... Respondents

(By Advocate Mr. S.Radhakrishnan)

The application having been heard on 29.10.2008, the Tribunal  
on 7-11-08 delivered the following:

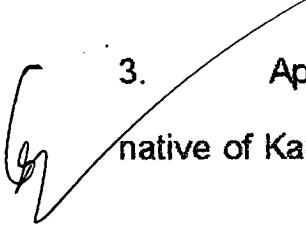
ORDER

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

The grievance of the applicant in this OA is that due to personal reasons, in order to be at Agatti islands itself, the applicant was prepared to forgo her ad-hoc promotion as Superintendent of Fisheries at Kavaratti and sought reversion to the lower post, Accountant. This was acceded to but by the impugned Annexure A-1 order the applicant stands posted out of Agatti in the same post of Accountant again to Kavaratti. The applicant prays that Annexure A-1 order to the extent it relates to the applicant be

quashed and set aside and respondents be directed to consider the request of the applicant for retention at Agatti in any suitable post and also for a direction to 3rd respondent to consider her leave application as she has been on leave.

2. According to the respondents, the applicant was transferred to Agatti by order dated 07.02.2007 on reversion to the grade of Accountant and she joined Agatti as Senior Auditor. The posts of Accountant in Agatti are attached to each of the two SDOs office, Government High School and Field Pay Unit. There are six officials excluding the applicant belonging to Agatti who are working in the Grade of Accountant. Even if three out of them are posted to Agatti as Accountants in the SDO's Office and as Superintendent attached to the Village Panchayat, then also, three would always be posted outside Agatti. According to the transfer policy tenure at Agatti is three years, and to accommodate other officials posted outside, who seek transfer to Agatti, the tenure of three years is prescribed. According to the respondents, the applicant got chance to work at Agatti for more than 9 years continuously. It has further been contented by the respondents that if the practice of getting reversion to the lower post from an ad-hoc promotion post is adopted as a method for remaining in a particular place for an indefinite period, it would create a bad precedent. It would also defeat the spirit and objectives of transfer policy. As regards grant of leave it has been stated that respondents has taken action to sanction leave applied for.

3.  Applicant has filed rejoinder wherein it has been stated that a native of Kalpeni was working in the Office of ASDO, Agatti as Accountant

and the administration could have considered one of the six officers belonging to Agatti for the said post. It has also been contented that applicant's case for retention at Agatti is not a special consideration given to her only. Reference is invited to order dated 30.09.06. Further it has been contented that the Junior Accounts Officer, Field Pay Unit., Agatti who is junior to the applicant in service has been in that post for over three years and the applicant could have easily been considered against that post. It has further been stated that the applicant is a lone female working as Accountant amongst the natives of Agatti. The applicant has cited a number of other cases and referred to number of other individuals to substantiate her claim that she should not be posted out of Agatti.

4. Counsel for applicant submitted that the applicant's transfer within almost an year from her posting to Agatti is totally unjustified, since, she had to go to Agatti from Kavaratti not by way of mere transfer but by way of seeking reversion from a higher to lower post. That she would continue for over 9 years in Agatti itself, which would set a bad precedent is far from truth. If at all she had to go back to Kavaratti, it is understandable if the applicant is promoted to a higher post and posted at Kavaratti.

5. Counsel for respondents submitted that the applicant had been at Kavaratti for a substantial period as her spouse is also employed in that Island. She sought for a transfer by way of reversion and sympathetically it was considered and posting order issued. However, since the Administration has to take into account the convenience/inconvenience of others as well, the Administration cannot permit the applicant to cling on

to the same place of Agatti merely for the reason that she had waived her promotion.

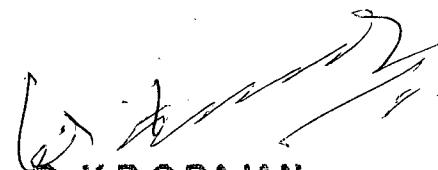
6. Arguments were heard and documents perused. The applicant has been posted to Agatti on reversion in February, 2007. The normal tenure is of three years. Notwithstanding the fact that the applicant had to forgo her promotion to get her posting at Agatti, on account of this reason, she cannot be retained in Agatti for ever. At best, her tenure at Agatti as Senior Auditor on reversion back from Kavaratti could be calendered at three years which is the normal tenure in any station. Since her posting at Agatti is from February, 2007, she could expect herself to be at Agatti till February, 2010. In between if she is promoted on ad-hoc basis or on regular basis and if she chooses to move she may be permitted. However, beyond three years from the date of her posting at Agatti on reversion from Kavaratti, she cannot be allowed to continue unless she comes under any of the exempted category from routine transfer. Likewise till she completes three years at Agatti she could not be compelled to move in the same post as she had admittedly sacrificed her promotion, albeit on ad-hoc basis.

7. In view of the above, the OA is allowed to the extent that annexure A-1 order whereby the applicant stands transferred to Kavaratti is quashed and set aside so far the applicant's transfer is concerned. It is directed that the respondents shall retain the applicant at Agatti for a period of three years from February, 2007 which is the normal tenure at Agatti. In case the applicant is due for promotion the promotional post may be offered to her and if the applicant chooses, she may take over that post. In the event of her refusal to move on promotion or in the event of non-promotion,



it is open to the respondents to consider her case for transfer out of Agatti in accordance with rules on completion of her station tenure under the transfer policy. As regards prayer for leave the same has become infructuous by virtue of the fact that the same has been considered by the respondents. No costs.

Dated, the 7<sup>th</sup> November, 2008.



Dr. K. B. S. RAJAN  
JUDICIAL MEMBER

VS