

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO. 4 OF 2009**

*Tuesday*, this the 18<sup>th</sup> day of August, 2009.

**CORAM:**

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

**HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

V.K.Somarajan Pillai  
GDSBPM, Ulanad P.O  
Kulanada  
Residing at Viruthethu Kizhakkethil, Nejttoor  
Kulanada  
Pathanamthitta

... Applicant

(By Advocate Mr. M.R.Hariraj )

versus

1. Union of India represented by the Secretary Government  
Department of Posts  
New Delhi
2. Chief Postmaster General  
Kerala Circle  
Trivandrum
3. Superintendent of Post Offices  
Pathanamthitta Division  
Pathanamthitta
4. K.Sureshkumar  
GDSMD, Panangad  
Pathanamthitta  
Residing at Suresh Bhavan  
Panangad, Kulanada

... Respondents


(By Advocate Mrs. Aysha Youseff, ACGSC (R1-3)  
Advocate Mr.P.C.Sebastian (R-4) )

The application having been heard on 12.08.2009, the Tribunal  
on 18-08-09 delivered the following:

**ORDER**

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


The applicant at present working as GDSBPM, Ulanad P.O has  
filed this OA challenging the transfer order issued by the respondents



(Annexure A-7) whereby Respondent No.4 has been transferred from the post of GDSMD, Panangad to the post of GDS SPM, Manthuka Branch office. According to the applicant, prior to the 4<sup>th</sup> respondent he had made a request for transfer to the said Post Office for various reasons as given in Annexure A-1 read with Annexure A-3. Earlier the applicant approached this Tribunal in OA 681/08 and the same was disposed of with a direction to the respondents to consider the pending representations with the Department. In pursuance of the same, the respondent considered the representations of the applicant, but rejected his request stating as under :-

*"In compliance with the order of the Hon'ble Tribunal, the undersigned has carefully considered the Annexure A-1 representation dated 10.09.2008 and the Annexure A-3 representation dated 11.11.2008 submitted by the applicant. There were requests from two Gramin Dak Sevaks for transfer to the post of GDSSPM Manthuka EDSO – one from the applicant in the OA and another from Shri K.S.Sureshkumar, GDSMD, Panangad BO who has been impleaded as the fourth respondent in the OA. The facility of limited transfer to Gramin Dak Sevaks is governed by the conditions laid down in DG Posts, New Delhi letter No.19-10/2004-GDS dated 17 July 2006. The applicant has sought transfer on the ground that he is a retrenched GDS posted to a distant place on redeployment in terms of para 2(1) of Directorate letter cited. I find that consequent on abolition of the post, the applicant who was working as GDSSV, Kulanada PO was posted as GDSBPM Ulanad BO which is only four kms. away from Kulanada SO and six kms. away from his residence, which cannot be treated as a great distance. The other applicant, Shri K.S.Sureshkumar, who was working as GDSMD had requested for transfer on medical grounds since he is suffering from low back ache and the doctor had advised him to avoid strenuous jobs like cycling. I feel that Shri K.S.Sureshkuamr, the fourth respondent in the OA, has a better claim for transfer to the post of GDSSPM, Manthuka EDSO.*

*In view of the above, I do not find any reason to accede to the request of the applicant for transfer to the post of GDSSPM, Manthuka, EDSO."*



2. The applicant has challenged the aforesaid order dated 31.12.2008 vide Annexure A-8. Official respondents as well as private respondents have contested the OA. According to the official respondents, the applicant was earlier posted as EDMC, Chennerkara where from he sought a transfer on medical grounds and he was posted as GDS Stamp Vendor, Kulanada on medical grounds. However, as the said post of GDSSV, Kulanada was abolished, the applicant became a retrenched employee and was accommodated in the post of GDSBPM, Ulanad on 14.03.2005 with a lower TRCA. However, his earlier TRCA drawn at the time of his retrenchment was protected and the difference was sought to be absorbed in future annual entitlements. In so far as the claim of the applicant for transfer to Manthuka is concerned, his case has not been covered since transfer vide Annexure A-2 order dated 17.07.2006 could be considered only when GDS is posted at a distant place on redeployment in the event of abolition of post. And in the case of the applicant, the place where he has been posted is just 2 kms away from the earlier place of posting. Respondents have also stated that in so far as transfer of 4<sup>th</sup> respondent is concerned, on comparative merit basis, it has been found that the case of 4<sup>th</sup> respondent is more deserving than that of the applicant.

3. The party respondent in his reply has stated that the impugned orders are administrative orders and it is not the case of the applicant that these are vitiated by malafides. The Tribunal cannot sit in appeal on the decision of the 2<sup>nd</sup> respondent. No preference is provided for retrenched employees in matters of transfer and it is only one of the




grounds enabling the GDS to seek for a transfer from one post to another under the policy decision to grant transfer on limited grounds.

4. The applicant has filed his rejoinder stating that the request of the applicant for transfer is on multi grounds which have not been properly considered. It has also been stated, " there is no parameter prescribed in Annexure A-2 regarding distant place redeployment." It has been alleged that there is no material on record which would persuade a reasonable person to conclude that 4<sup>th</sup> respondent comes within the purview conditions stipulated in Para 2 (v) of Annexure A-2 guidelines. Alongwith the rejoinder the applicant has annexed medical certificate in respect of his parents.

5. The official respondents have filed additional reply stating that Para 2(v) of the guidelines provides that one of the conditions for transfer is to look after dependents where the GDS seeking transfer has to move from place to place. In the case of 4<sup>th</sup> respondent his mother is undergoing treatment for cancer at RCC, Trivandrum. Hence respondent No.4 was granted transfer. As regards parameter to define "distant place" the applicant is working just six kms. away from his residence and the same cannot become a great distance. For comparison the ailment of the parents of the applicant and 4<sup>th</sup> respondent have been taken into consideration.

6. Applicant has filed his additional rejoinder stating that the parent of the applicant has been granted financial assistance from the Circle Contributory Welfare Fund for treatment by Annexures A-13 and



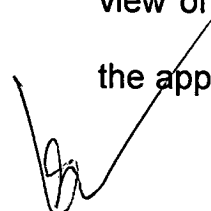
A-14.

7. Counsel for applicant strenuously argued that the entire scheme of transfer facility on limited grounds is based on public interest and if public interest is taken into account the ground stated in Annexure A-3 application would prove that the posting of the applicant will serve public interest more. It has also been argued that the respondents mother is suffering from cancer and has to be taken to Trivandrum would not have any material difference by posting the respondent to his present place of posting. It has been alleged that the precise reason for 4<sup>th</sup> respondent to be accommodated as GDS SPM is that the said respondent was earlier functioning as Mail Deliverer and the present post is GDS SPM.

8. Counsel for official respondents submitted that no legal flaw can be located in the impugned orders. Annexure A-11 is a comprehensive order giving full justification as to the rejection of the claim of of the applicant and acceding to the request of 4<sup>th</sup> respondent.

9. Counsel for the party respondents reiterated the contentions raised in the reply filed by the party respondents.

10. Arguments were heard and documents perused. Under the rules request transfer is permissible once in the entire career. This has been availed of by the applicant when he was moved to Kulanada. In view of the abolition of one post of MDSSV at Kulanada the posting of the applicant was to Ulanad, a nearby Post Office the distance between



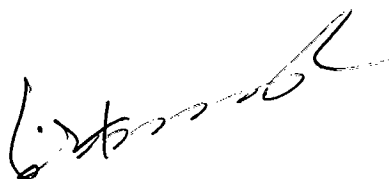
residence and the two Post Offices respectively being 4kms. and 6kms. only. Thus it cannot be stated that the applicant has been posted to a distant place on account of abolition of the post of GDSSV. In so far as the 4th respondent is concerned, the medical certificate reflects that the said individual is advised to avoid strenuous job including climbing, squatting and cycling. Respondent No.4 had been functioning earlier as Mail Deliverer which involved adequate travel. According to the Counsel for applicant, the 4th respondent was originally posted at Panangad which was just 1 ½ kms. From his residence whereas the present posting of the 4th respondent is to a far of place (4 ½ kms.) and thus no purpose would be served by posting the said 4th respondent to Manthuka. The official respondents have stated that by posting the 4th respondent at Manthuka he has been posted to a stationary post as SPM. This posting has resulted in reduction of movement of the 4th respondent. In addition that the 4th respondent's mother has been suffering from cancer has weighed more to the respondents to accede to the request of the 4th respondent, compared to the case of the applicant.

11. We are fully satisfied that no legal / vested right of the applicant has been hampered by rejecting his request for transfer nor has any favour been shown to 4th respondent in acceding to his request. OA thus lacks merit and is therefore dismissed. No costs.

Dated, the 18<sup>th</sup> August, 2009.



**K GEORGE JOSEPH**  
**ADMINISTRATIVE MEMBER**



**Dr.K.B.S.RAJAN**  
**JUDICIAL MEMBER**