

CENTRAL ADMINISTRATIVE TRIBUNAL
 ERNAKULAM
O.A.No.399/2011 & 402/11

Dated this the 29th day of June, 2011

CORAM:

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

O.A 399/211

I. Sudharatnam, W/o K.P. Vasu, Passport Granting Officer,
 Passport Office, Malappuram, Residing at 'Vrindavanam',
 Sasthri Nagar, Ernakulam PO, Kozhikode : 673 006

... *Applicant.*

(By Advocate Mr. Shafik M.A.)

Vs

1 Union of India represented by
 The Chief Passport Officer & Joint Secretary (CPV),
 Ministry of External Affairs, New Delhi.

2 The Under Secretary (PVA),
 Ministry of External Affairs, New Delhi.

3 The Passport Officer, Passport Office, Malappuram.
 ... *Respondents.*

(By Advocate Mr George Joseph, ACGSC)

OA No.402/2011

K.M. Durga, W/o late P. Sudhakaran, Passport Granting Officer,
 Passport Office, Malappuram, Residing at 'Prasadam',
 Arts & Science College PO, Kozhikode : 673 018

... *Applicant.*

(By Advocate Mr. Shafik M.A.)

Vs

1 Union of India represented by
 The Chief Passport Officer & Joint Secretary (CPV),

Ministry of External Affairs, New Delhi.

2 The Under Secretary (PVA),
 Ministry of External Affairs, New Delhi.

3 The Passport Officer, Passport Office, Malappuram.
 ... Respondents.

(By Advocate Mr Varghese P.Thomas, ACGSC)

The Original Application having been heard on 23.6.11, this Tribunal delivered the following :

O R D E R

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

As the legal issues involved in both these OAs are identical, they were heard together and are being disposed of by this common order.

2 The applicants are aggrieved by the refusal of the respondents to relieve them from Malappuram Passport Office to join Kozhikode Passport Office inspite of the transfer order dated 12.06.2009. By filing these O.As, they pray for a direction to the respondents to relieve them from Malappuram Passport Office to join Kozhikode Passport Office.

OA 399/2011

3 The applicant is presently working as Passport Granting Officer at Passport Office, Malappuram. She was deputed there on temporary duty in the year 2006 from Kozhikode office and was transferred there subsequently. She joined there on 14.10.2006. She has completed more than 4 years at Malappuram. As per the transfer policy dated 09.02.2010, two years is the tenure at a station. As per order dated 12.06.2009, she stands transferred back to Kozhikode alongwith 5 others, out of which 4 have been relieved and have since joined the office at Kozhikode. Her representations dated 26.4.2010 and 3.3.2011 have not yielded any

favourable result. In the meantime she was promoted as Superintendent w.e.f 12.2.2009. The applicant submits that she is entitled for a transfer back to Kozhikode in 2009 itself as per the then existing transfer policy which prescribed a 3 years tenure. Even according to the revised transfer policy of 2010 with a two years tenure, she is eligible to be transferred back to Kozhikode. The applicant herself and her husband are suffering from various diseases. Her husband, a retired State Govt employee, residing at Kozhikode requires constant attention. The juniors to the applicant in age and service were relieved from Malappuram and transferred back to Kozhikode. As per the records maintained by the respondents themselves, a vacancy of Passport Granting Officer is available at Kozhikode Passport Office also. She further stated that a similarly situated employee who was transferred alongwith the applicant by Annx.A4 order has filed O.A 568/2010 before this Tribunal challenging the refusal of the respondents to relieve her from Malappuram Passport Office. The Tribunal allowed the OA by order dated 28.10.2010 (Annx.A10). She has joined Kozhikode office already.

O.A 402/2011

4 That the applicant is presently working as Passport Granting Officer at Passport Office, Malappuram. She was deputed there on temporary duty in the year 2006 from Kozhikode office and was transferred there subsequently. She joined there on 10.7.2007. She has completed more than 4 years at Malappuram. As per the transfer policy dated 09.02.2010, two years is the tenure at a station. As per order dated 12.06.2009, she has been transferred back to Kozhikode alongwith 5 others, out of which 4 have been relieved and have joined the office at Kozhikode. Her representation dated 1.2.2010 has not yielded any favourable result. The applicant submits

that she is entitled for a transfer back to Kozhikode in 2010 itself as per the then existing transfer policy. Even according to the revised transfer policy of 2010, she is eligible to be transferred back to Kozhikode. The applicant is suffering from various diseases. She is a widow and her only daughter with a complicated pregnancy is with her and she requires constant attention. She too underwent a Hysterectomy surgery and is suffering from surgery related complications. The juniors to the applicant in age and service were relieved from Malappuram and they joined Kozhikode office long back. As per the records maintained by the respondents themselves, a vacancy of Superintendent/Passport Granting Officer is available at Kozhikode Passport Office also.

5 The applicants prayed that the respondents may be directed to issue immediate orders relieving them from Malappuram Passport Office to enable them to join at Kozhikode Passport Office .

6 The respondents contested the O.As. The applicants and others who have completed more than three years could not be relieved due to non availability of equal number of PGO posts in Passport Office, Kozhikode. The contention of the applicants that their juniors have been transferred to Kozhikode is without any basis. Completion of 3 years at certain station does not automatically entitle the officials to seek transfer, which is to be decided solely on administrative exigencies which get priority over the personal requirements, The respondents have acted in accordance with the transfer policy guidelines. It is submitted that the applicants were not relieved from Malappuram as they were junior to other Superintendents who had been relieved. It is further averred that the requests of the applicants for transfer back to Kozhikode have been considered in Transfer Boards during the last two years but due to shortage of vacancies they could not be

adjusted. They denied any malafides involved in these cases.

7. Arguments were heard and documents perused.

8. The transfer order in respect of the applicants is dated 12.06.2009.

They have not been relieved because of shortage of officers at Kozhikode Passport Office to replace them. But as per Annexure A-7 in OA 399/2011, the sanctioned strength of Superintendents at Kozhikode Passport Office is 5, out of which 4 Superintendents were relieved recently and 3 Superintendents have joined recently. As on June, 2010, the working strength in the cadre of Superintendents at Kozhikode Passport Office is 4, leaving one clear vacancy. Similarly against 3 sanctioned posts of APO, only one is working. When the Passport Officer, Malappuram, recommended the case of 4 officers, including the applicant, for favourable consideration regarding transfer back to choice station and when there are 3 vacancies available at Kozhikode Passport Office, there is no reason not to relieve them to join the Passport Office at Kozhikode. As per the averment of the respondents, there is heavy work load at Kozhikode Passport office and in 2009, the number of Passports issued is 186723 (Annex.A7). Since there are vacancies available for the applicants at Kozhikode, there is no reason why the applicants should not be relieved. As stated in their representations the applicants have only less than 3 years of service left. In OA 399/11 the applicant met with an accident in 2006 and she suffered a serious head injury. Because her sick husband is residing at Kozhikode, with all her attendant medical problems, she has to commute to Malappuram for the past five years. In OA 402/11, the applicant is a widow and she is compelled to take care of her only daughter having a complicated pregnancy.

9. During the final hearing, the learned counsel for the applicant invited my attention to Annex.A7 in OA 642/2010, wherein the sanctioned and

working strength of RPO Cochin is shown. It is seen that against 7 sanctioned post of Superintendent 27 are working and 2 posts of APO 9 are working. The counsel alleges that these Superintendents/APO have never been transferred out of Cochin. Malappuram Passport Office was established in 2006 and manpower resources are to be met with from other Passport Offices only. Therefore, in 2006, a minimum tenure of 3 years was fixed for those transferred from Kozhikode and elsewhere to Malappuram. In 2010, the tenure was reduced to two years. So, if there is excess work in Malappuram, it is for the respondents to give one compulsory tenure of two years at Malappuram to all Superintendent/APO/PGO at Cochin and elsewhere, instead of not relieving those who have since completed the tenure at Malappuram Passport Office. The applicants have produced Annx.A5 order of this Tribunal dealing with an identical issue which was allowed. I follow the same order and accordingly it is ordered as under:

10. The respondents are directed to consider the case of the applicants sympathetically in the light of the discussion above to relieve them from Malappuram Passport Office to join Kozhikode Passport Office, within 30 days from the date of receipt of a copy of this order.
11. The O.As are allowed to the above extent. No order as to costs.

(Dated 29th June. 2011)

K.NOORJEHAN /
ADMINISTRATIVE MEMBER

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