

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM  
O.A.No.406/2011

Dated this the 21<sup>st</sup> day of July, 2011

**CORAM :**

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

V.A.Raghu Prasad, Passport Granting Officer,  
Passport Office, Eranhipalam P.O, Kozhikode : 673 006

... Applicant.

(By Advocate Mr. P.Ramakrishnan)

Vs

- 1 Union of India represented by Secretary  
to Govt, Ministry of External Affairs, New Delhi.
- 2 The Joint Secretary (PSP)&Chief Passport Officer  
Ministry of External Affairs, New Delhi.
- 3 The Passport Officer, Passport Office,  
Eranhipalam P.O, Kozhikode : 673 006

... Respondents.

(By Advocate Mr M.K.Aboobacker, ACGSC)

The Original Application having been heard on 11.7.11, this Tribunal delivered the following :

O R D E R

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the refusal of the respondents to transfer him back to his home town Kochi in spite of the fact that others have been favoured with choice posting.

2 The applicant is presently working as Passport Granting Officer at Passport Office, Kozhikode and is left with only 10 months service for superannuation. He is a native of Cochin, his family members, his mother

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aged 88 years and a divorced sister are wholly depended on him are staying at Cochin. He was transferred to Kozhikode in April 2008 and is continuing there for the last 4 years. His health is deteriorating as he suffers from mild renal failure. He is under treatment at Amrita Institute of Medical Science, Cochin. Due to his illness he is unable to undertake long distance journey every week still it is unavoidable his presence in Kochi is essential. As per the transfer policy one year prior to superannuation efforts shall be made to post an official at the station of his choice. Further it states that transfer shall be effected strictly based on the length of stay at a station. On 28.2.2011 the 1<sup>st</sup> respondent issued a circular calling upon the employees to prefer representation for consideration of request of transfer by the 'transfer board of the Central Passport Organisation' for the year 2011-12. In response to that the applicant submitted his representation. In his representation he has narrated the compelling personal reasons, which require his presence at Cochin and pointed out that one Smt. Aniamma Mani, Passport Granting Officer at Kochi had requested for her transfer from Kochi to Kozhikode so that he can be adjusted against her vacancy. His representations have not yielded any favourable result. The applicant submits that he was due for a transfer back to Kochi in 2010 itself in view of impending his superannuation as per the existing transfer policy.

3 The respondents contested the O.A. They averred that the request of the applicant was considered by the competent authority in the Ministry but could not acceded due to exigencies of service and public interest. They further stated that as per the transfer policy, one year prior to superannuation, efforts shall be made to post the official at the station of his choice in view of the welfare oriented policies of GOI and it shall be endeavoured that official is transferred back to the station of his choice after completion of the prescribed tenure. Completion of tenure at a particular station or retirement from service within the next one year does not automatically entitle the officials to seek transfer, which is to be

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decided solely on administrative exigencies which get priority over the personal requirements, The respondents have acted in accordance with the transfer policy guidelines. They denied any malafides involved in this case.

4 Arguments were heard and documents perused.

5 It is well settled that the Courts or Tribunal are not appellate forum to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to places of their choice. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background/foundation. When as in this case, the transfer order is issued on administrative grounds the court cannot go into the expediency of posting an officer at a particular place. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. ( State of M.P. and another Vs. S. Kourav and Others (AIR 1995 SC 1056)

6 However, in the instant case, one cannot deny the contention of the applicant that he is left with only 10 months for his superannuation and the fact that the transfer policy of the respondents states that one year prior to superannuation, efforts shall be made to post the official at the station of his choice in view of the welfare oriented policies of GOI. Moreover the applicant has brought to the notice of the respondents vide his representation Annx.A4, that one Smt. Aniamma Mani, Passport Granting Officer at Kochi had requested for her transfer from Kochi to Kozhikode so that he can be accommodated in her vacancy, has not been controverted by the respondents in their reply.



7 The respondents in the reply statement contended that the decision taken on the representation of the applicant by the competent authority was on administrative grounds. It is true that the respondents might have taken a decision on the representation of the applicant on administrative exigencies, but there is no statement to show that the case of the applicant has been considered and that it is not feasible to accede to the request of the applicant in the administrative exigency.

8 In a similar case, O.A. 476/2010 decided by this Tribunal held as follows:

"6. Accordingly, the respondents are directed to consider transferring the applicants to Cochin by pinpointing necessary vacancies by way of transferring those who are staying for a long time at Cochin or transferring them with their posts to Cochin within a period of 60 days from the date of receipt of copy of this order.

7. The O.A is allowed to the extent indicated above. No order as to costs.

9 In that case the respondents were directed to consider transfer of the applicants to Cochin by pinpointing vacancies by way of transferring those who are staying at Cochin for a long time. The impugned orders are silent about an exercise being carried out to ascertain vacancies or whether the impugned orders were issued in compliance of the direction of the Tribunal. The stay-wise seniority list of Superintendents in RPO, Cochin as on 28.10.2010 has been produced by the learned counsel for the respondents, it has been observed by the Tribunal that Smt. Narayanikutty Kavu, Superintendent at Sl. No. 1 has superannuated on 31.10.2010. Smt. Kumari Bosco at Sl. No. 6 is abroad on long leave. So there are two positions against which the applicants can be fitted against for the short duration of 8 to 9 months. Both are retiring by August/September, 2011.

10 During the final hearing, our attention was invited to the affidavit filed by the respondents in OA 642/2010. The sanctioned and working strength of RPO Cochin was shown therein. It is seen that against 7 sanctioned post of Superintendent 27 are working and 2 posts of APO 9 are

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working. The counsel for the applicant alleges that these Superintendents/ APO have never been transferred out of Cochin. Therefore it was suggested to the respondents to transfer every one, in turn for a minimum tenure of two years instead of refusing to bring back, those who completed their tenure at Kozhikode or Malappuram.

11 Accordingly, in the interest of justice and balance of convenience, we direct the respondents to consider the transfer of the applicant to Cochin as early as possible, at any rate within 4 weeks from the date of receipt of a copy of the order. The O.A is allowed to the above extent. No order as to costs.

(Dated 21<sup>st</sup> July, 2011)

  
K.NOORJEHAN  
ADMINISTRATIVE MEMBER

  
Dr.K.B.S.RAJAN  
JUDICIAL MEMBER

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