

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 41 of 2010

MONDAY, this the 29th day of March, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

C. Chandrika, wife of Thulasikumar, residing at
Parvathy Mandiram, TC 27/1454, Rishimangalam,
Vanchiyoor PO, Thiruvananthapuram-35.

Applicant

(By Advocate – Mr. Pratap Abraham for Mr. P. Ramakrishnan)

V e r s u s

1. **Union of India, represented by Secretary to Government,**
Ministry of Communications, Department of Posts,
New Delhi – 110 001.

2. **The Chief Post Master General, Kerala Circle,**
Thiruvananthapuram.

3. **Senior Superintendent of Posts, Thiruvananthapuram North**
Division, Thiruvananthapuram.

4. **The Director of Postal Services,**
Thiruvananthapuram.

Respondents

(By Advocate – Mr. S. Jamal, ACGSC)

This application having been heard on 17.3.2010, the Tribunal on
29-03-10 delivered the following:

O R D E R

By Hon'ble Mr. K. George Joseph, Administrative Member –

This Original Application has been filed by the applicant with a prayer
for a direction to the respondents to appoint her in a Post Office near her
residence as requested by her.

2. To state the facts of the case briefly the applicant is working as a Leave Reserve Postal Assistant at Ashramam Sub Post Office, Kollam Division with effect from 5.2.2007. She applied for Rule 38 transfer to Trivandrum North Division on the ground that her husband who is working as a registered Advocate's clerk in Trivandrum District and Subordinate Courts is residing at Trivandrum and their son also is studying at Trivandrum. The applicant being a promotee in the cadre of Postal Assistant, is eligible for transfer under Rule 38 of P&T Manual, Volume IV only on completion of 3 years of service. However, considering the fact that she was physically handicapped she was given a temporary transfer to Venjarammoodu Post Office in Trivandrum North Postal Division for a period of one year vide order dated 4.8.2009. She requested for a posting in a nearby Post Office within the city limits as it is extremely difficult for her, on account of her disability, to travel daily 30 Kms. from her residence to Venjarammoodu and back. There are vacancies available at Post Offices in Vanchiyoor, General Post office, East Post Office, Vikas Bhavan, Chalai and Medical College Post Office. Although the fourth respondent namely the Director of Postal Services, Trivandrum had directed the Senior Superintendent of Posts, Trivandrum North Division (3rd respondent) to consider her request favourably and post her in a Post Office near her residence, no orders had been passed by him. As no action is taken by the respondents this OA is filed.

3. The applicant submits that the delay on the part of the 3rd respondent in transferring her to a more convenient Post Office is arbitrary and illegal.



The post now given to the applicant in Venjarammoodu Post Office helps her in no way. She is a physically handicapped person with 50% disability, unable to travel alone in a bus on long trips. The request from a physically handicapped employee for transfer to or near her native place can be given preference as per Annexure A-3 government order. Not posting the applicant in any one of the vacancies near her residence is causing severe hardship and prejudice to the applicant.

4. The respondents contested the OA. They took the stand that the applicant was not eligible for Rule 38 transfer but was given temporary transfer on purely humanitarian and sympathetic grounds. The representation from the applicant to the Chief Post Master General requesting for a posting in a nearby Post Office within the city limits as Venjarammoodu Post Office is 30 Kms. away from her residence was forwarded to 3rd respondent with a direction to consider her posting to a more convenient place. The respondents further submit that there is a practice in the Trivandrum North Division to post officials who come on transfer on deputation from other divisions in the rural areas first and subsequently to bring them to nearby offices on the basis of their request seniority. It is based on this practice that the applicant was given a posting at Venjarammoodu Post Office. Although there are many vacancies in the city as pointed out by the applicant there are many other requests from other senior officials who have already worked and completed their tenure in rural areas. Their request could not be considered owing to the acute shortage of staff in the division. This being so to consider the request of the



applicant alone overlooking other eligible officers will be an act of injustice towards them. If she is given a posting within the city limits as per her request, being a Leave Reserve Postal Assistant (junior most Postal Assistant in the division) she will have to go on deputation and work in other offices through out the division whenever there is a temporary staff shortage/leave vacancy. This will be more inconvenient to the applicant. Under these circumstances the OA should be dismissed being devoid of merit.

5. Arguments were heard and documents perused.

6. Admittedly the Director of Postal Services has directed the Senior Superintendent of Post Offices, Trivandrum to consider posting the applicant to a more convenient place than Venjarammoodu Post Office. What prevents the latter from giving the applicant a more convenient posting in one of the Post Offices at Vanchiyoor, General Post office, East Post Office, Vikas Bhavan, Chalai or Medical College Post Office is the apprehension on the part of the latter that she will have to undergo more inconvenience as she may have to go on deputation to other offices through out the division whenever there is a temporary staff shortage/leave vacancy. The latter has also a reluctance to overlook the senior officials who could not be accommodated in the city area even after they have completed their tenure in the rural areas. This stand would be justified if the applicant were not a physically handicapped person. The fact that the applicant is a physically handicapped person calls for a special consideration. The third

respondent failed to appreciate that the posting at Venjarammoodu Post Office has done no good to her, infact it has only added to her hardship and inconvenience. The posting at Venjarammoodu Post Office has not served the purpose for which she had sought a transfer to Trivandrum. On relizing her hardship the 4th respondent was quite sympathetic towards her in directing the 3rd respondent to consider giving her a more convenient posting. Instead of acting on the direction, the 3rd respondent has delayed granting her a favourable posting. The respondents have failed to empathize with a physically handicapped person working under them. Although the applicant has narrated in sufficient detail the difficulties she has to undergo on being posted to Venjarammoodu Post Office on account of her being a physically handicapped person, she is treated just like a normal employee who has to stand in the queue and wait for her turn to get a more convenient posting. The respondents are very diligent to point out that being a handicapped person a posting at one of the places sought by her may prove to be more inconvenient to her on applying the rule that the junior most person should be sent on deputation whenever there is a temporary shortage on account of transfer or leave. It is perverse to take the stand that a posting as per her choice might do her more harm than good. Lack of sympathy for a physically handicapped person is bad enough. To deny her what is a fair and legitimate consideration on the ground that it would cause her more hardship is an attitude that cannot be appreciated. Such an attitude goes counter to the avowed intention of the state to empower the disabled to lead a full and dignified life as exemplified by the Disabilities Act 1995, and various orders granting them special consideration in providing for

reservation in jobs and non-discrimination in transport, on the road, in buildings and in government employment.

7. It is society's responsibility to support a disabled person. They are not to be pitied but to be helped to lead a meaningful life. We are of the considered view that the inaction on the part of the respondents is totally unjustifiable. The reliance on the set practice in Trivandrum North Division to post all officials who come on transfer from other divisions first in rural areas only on the basis of an agreement with Service Union and reluctance to be unjust to the request seniors of the applicant are misplaced. It is like devil quoting scriptures to justify wrong doing. The State would not have penalized the respondents for showing special consideration to a disabled person in giving a less inconvenient posting. It is only human to provide succour to a person in distress. The applicant is in distress. Her physical disability cannot be cured but the stress and strain she has to undergo can be minimized by granting her a transfer to a Post Office near her home.

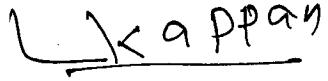
8. In the light of the above, we have no hesitation in allowing the OA. Before parting we would like to impress upon the respondents that the applicant should not be victimized in assigning work. Being a physically handicapped person with movement restrictions, the applicant should not be sent on deputation wherever and whenever temporary shortage of staff occurs in the division, without her consent.

9. The OA is allowed. Annexures A-4 and A-6 transfer orders are hereby

quashed and set aside. The respondents are directed to transfer and appoint the applicant in a Post office nearby her residence within the city limits of Thiruvananthapuram as requested by her within a period of 15 days of receipt of a copy of this order.

10. No order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

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