

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00837/2017

Monday, this the 8th day of October, 2018

CORAM:

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member**

P.N. Viswambaran,
S/o Narayanan, aged 58 years,
Sorting Postman, Vytila Post Office, Pin 682019,
Now on transfer to Kaloor Post Office,
residing at Pereparambu House, Nellikkal Road, Kundannor,
Maradu P.O. Pin-682304. **Applicant**
(By Advocate – Mr.T.K.Koshy with Mr. Paul Varghese)

V e r s u s

1. Senior Superintendent of Posts,
Ernakulam Division, Ernakulam,
Kochi 682 011.
2. Chief Postmaster General
Department of Posts, Kerala Circle,
Thiruvananthapuram Pin 695 033.
3. Director General Posts,
Department of Posts, Dak Bhavan,
New Delhi 110 001.
4. Union of India, represented by Secretary,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan, New Delhi 110 001.
5. Sri K. Rajendran,
Postman, Vytila P.O.
Ernakulam 682 019. **Respondents**

(By Advocate – Mr.N.Anilkumar, Sr. PCGC(R))

This Original Application having been heard and reserved for orders on 03.10.2018, the Tribunal on 08.10.2018 delivered the following:

O R D E R

Per: Ashish Kalia, Judicial Member:

Applicant seeks the following reliefs:

- (i) Call for the records leading to Annex A13 and set aside the same.
- (ii) Issue any other order or direction as this Tribunal may find it fit and proper on the facts and circumstances of the case.
- (iii) Award the cost of this proceeding to the applicant.

2. Briefly stated, the facts of the case are that applicant is a Postman posted against the sanctioned permanent post of Sorting Postman at Vytila Sub Post Office to do beat sorting work on regular basis. He was initially appointed as Postman in the Department on 14.12.1991 and was subsequently promoted to the next higher grade under the Time Bound One promotion Scheme (TBOP for short) and the 2nd higher grade (II Grade) under Minimum Assured Career Programme (MACP) Scheme on completion of 16 years and 20 years of satisfactory service respectively.

3. The Postal Directorate vide letter dated 04.05.2011 ordered that the post of Sorting Postman has been re-designated as Postman and both Postman and Sorting Postman have been given a common generic designation of Postman. The post of Sorting Postman is a promotional post of Supervisory nature at par with an Overseer Postman (Mail Overseers) and Head Postman to be made by promotion of postmen as per Rule 281 of Post Office Manual Volume IV. Such promotion appointments are made in the order of seniority-cum-fitness. Applicant is a chronic diabetic and rheumatic patient suffering from severe disc problems resulting in acute back ache and was undergoing continuous treatment for the same for the past more than two years. Applicant had taken medical leave and joined for his duties after getting medical certificate on 1st August, 2016. The Postmaster ordered to work in the absent place of a GDS (Gramin Dak Sevak) in Beat No.3 to deliver the mails. The applicant had apprised the Postmaster about his physical condition and could not perform the delivery work as ordered. He was subjected to Departmental Proceedings by issuing charge-sheet under Rule 16 of the CCS (CCA) Rules 1965. Applicant made representation thereto and there was a penalty order by reducing reduction of pay by one stage for a period of two years with cumulative effect with direction not to grant increments of pay during the period of reduction. He has challenged the said order in Original Application No. 611/2017. The Tribunal has quashed and set aside the

departmental proceedings under Rule 16 of the CCS(CCA) Rules and directed to conduct fresh inquiry. Feeling aggrieved by the Annexure A.13, he has approached this Tribunal seeking to quash and set aside the impugned order of transfer and posting of the applicant to DSV, Kaloor Post Office.

4. Notices were issued and respondents filed their detailed written statement contesting the claim of the applicant.

5. Respondents in their written reply submitted that the applicant while working as Postman, Mattancherry SO was transferred and posted as Postman at Vytila PO with clear instructions to the Head of the Office that the service of the applicant may be utilised for sorting of the postal articles pertaining to various beats of Vytila P.O. which is called beat sorting vide Annexure A-5 Order. Annex A5 order clearly points out that the applicant was never promoted as Sorting Postman. Rule No.281 of Postal Manual Volume IV deals with the appointment to the post of Branch Postmaster, Overseers, Overseer Postmen, Sorting or Reader Postmen and Head Postmen which Read as follows;

“Rule 281: Appointment to the post of branch postmasters, overseers, overseer postmen, sorting or reader postmen head postmen should be made by promotion of postmen and village postmen. Such appointments will normally be made in order of seniority, but the appointing authority may in his discretion pass over any senior official whom he does not consider fit for such an appointment. A single gradation list should be maintained for the holders of all these posts which should be made interchangeable.”

It is also clearly mentioned in the above rule that “*A single gradation list should be maintained for the holders of all such posts which should be made interchangeable...*” which means that all post are equal in cadre. The applicant was given financial upgradation based on the length of the service applicable to all the employees and not based on the promotion as claimed by the applicant. A true copy of O.M. No. 25-20/2008-P.E.I dated 04.05.2011 is produced herewith and marked as Annexure R.2. It is clear from Annexure R2 that pay scales of both postman and sorting postman is in Pay Band I (5200-20200) with Grade pay of Rs.2000. The applicant was granted financial upgradation under TBOP Scheme (Time Bound One Promotion Scheme) w.e.f.

02.01.2008 in the Pay Scale of Rs. 5200-20200 with Grade Pay of Rs.2400 and was subsequently granted financial upgradation under 2nd MACP Scheme w.e.f. 01.01.2012 in the Pay Scale of Rs. 5200-20200 with Grade Pay of Rs. 2800 which is not a promotion, but only a financial upgradation.

6. The applicant has filed rejoinder and reiterated the pleadings in the O.A.

7. We have heard the learned counsel for the applicant and the learned Standing Counsel appearing for the Central Govt. at length and have perused the pleadings and papers on file.

8. We have considered the rival submissions and in the nutshell the grievance of the applicant is that he has been posted as Departmental Stamp Vendor at Kaloor Post Office whereas he is entitled to do sorting work as Postman or other work of Overseer etc. But due to the health issue he cannot perform the Beat Duties of distributing mail etc.

9. Having analysed the facts of the case and the relevant rules and orders issued by the Department from time to time, we are of the considered view that department has taken into consideration of all these aspects and the applicant has been posted to the post of Stamp Vendor at Kaloor which is of the equal rank. The grievance of the applicant is also met with to the extent that he need not do the delivery of mail etc. Under these circumstances we find no justification in the claim of the applicant that he should be given post of Sorting Postman alone. The respondents have suitably accommodated him by adopting a lenient view of his physical conditions without affecting his pay and allowances. Thus, the present O.A. fails to convince us. Accordingly the same is dismissed.

10. Parties are directed to suffer their own cost.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

sj*

List of Annexures of the Applicant in O.A. No. 180/00837/2017

Annexure A-13. True copy of the Memo dated 11.10.2017 of the 1st respondent.

Annexure A-2 - True extract of the relevant portion of the Post Office Manual Volume IV showing Rule 281.

Annexure A-3 : True copy of letter No. Ekm CCC/RTI/1007/2017 dated 2.3.2017.

Annexure A-4 - True copy of the said Memo No. B-3/21 dated 26.6.2012 of the 1st respondent.

Annexure A-5 : True copy of the order No. B-3/13-1 dated 16.7.2012 of the 1st respondent.

Annexure A-6 : True copy of the Charge report furnished on 18.7.2012.

Annexure A-7 : True copy of the Pay Slip issued for the month of September 2017.

Annexure A-8 : True copy of the Memo No. B-3/21 dated 23.11.2015 issued by the 1st respondent.

Annexure A-9 : True copy of the representation daed 14.7.2016 submitted to the 1st respondent.

Annexure A-10 : True copy of the order dated 28.7.2017 of this Tribunal in O.A. No.180/00611/2017

Annexure A-11 : True copy of the order dated 12.9.2017 of the 1st respondent.

Annexure A.12 : True copy of the memo dated 5.10.2017 of the 1st respondent.

Annexure A.13 : True copy of the memo dated 11.10.2017 of the 1st respondent.

Annexure A.14 : True copy of the common order dated 17.9.2014 in OA 443/2013 and OA 624/2013.

Annexure A.15 : True copy of the memo of charges issued vide Memo No.Inv/Misc/1/2017 dated 16.8.2017.

Annexure A.16 : True copy of the show cause memo issued vide No.B3/11 dated 12.1.2018.

Annexure A.17 : True copy of the RO letter No. ST/Misc.2011 dated 21.6.2012.

Annexure A18: True copy of the relevant pages of the Muster Roll of Vytilla Post Office showing the attendance of the

employees in July 2016.

1. List of Annexures of the Respondents in O.A.No.180/00837/2017

Annexure R.1: True copy of the representation dated 09.09.2017 submitted by the applicant.

Annexure R.1(a): True copy of English translation of Annex R1.

Annexure R.2 : True copy of the O.M.No. 25-20/2008-P.E-I dated 04.05.2011.

Annexure R.3: True copy of Chief Post Master General, Kerala letter No. EST/53-3/2008 dated 16.09.2008.

Annexure R.4: A true copy of the letter No. EST/53-3/2008 dated 03.08.2016 issued by the CPMG.

Annexure R.5: True copy of the SSPOs, Ernakulam Division Letter No. B-3/1-1 dated 15.09.2017

Annexure R.6: True copy of the order issued regarding the action initiated against the applicant dated 26.08.2016.

Annexure R.7: True copy of the representation submitted by the applicant dated 31.08.2016.

Annexure R.8: True copy of the Order Book.

Annexure R.9: True copy of the Order dated 09.06.2017 in the appeal preferred by the applicant.

Annexure R.10 True copy of the orders issued with regard to the conduct of Rule 16 (1) (b) inquiry
