

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00901/2018

Thursday, this the 6th day of December, 2018

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

Siby Mathew,
S/o P.D.Mathew,
Aged 45 years,
Postal Assistant,
Kottayam H.O.,
Department of Post,
residing at Pullatt House,
Ettumanoor,
Kottayam.

....Applicant

(By Advocate Mr.V.Sajith Kumar)

V e r s u s

1. The Union of India,
represented by the Secretary to the
Government of India,
Department of Post,
Government of India,
New Delhi – 110 001.
2. The Chief Postmaster General,
Kerala Circle,
Trivandrum – 695 033.
3. The Senior Superintendent of Post Office,
Kottayam – 686 001. ...Respondents

(By ACGSC, Mr.P.R.Sreejith for Respondents)

This application having been heard on 4th December 2018, the Tribunal

.2.

on 6th December, 2018 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The controversy in the case relates to the issuance of transfer and postings ordered on 29.06.2018 (Annexure A1) by Respondent-3 relating to the cadre of SPMs/PAs . The applicant had approached this Tribunal seeking interference from our side on the ground that the said postings had been issued in violation of various guidelines issued by the Department from time to time. In OA Nos.601/2018, 622/2018, 649/2018, 652/2018, 677/2018, 682/2018, 683/2018, 690/2018 and 708/2018, Postal Assistants had challenged the order at Annexure A1 on various grounds such as non-completion of tenure in existing posts, ignoring option submitted and grave personal inconvenience. This Tribunal through order dated 04.10.2018 had disposed of the OAs directing the official respondents to examine each case in relation to norms and orders issued by the respondent Department from time to time and after considering the arguments raised in the OAs. It was further ordered that the transfers in question were not to be given effect to until speaking orders were issued in each case.

2. This OA No.901/2018 is filed by Siby Mathew, Postal Assistant, Kottayam HO. He was one of the applicants in the group of OAs, OA No.601/2018, which had been considered by this Tribunal and by virtue of the order issued by us,

.3.

his case was considered afresh by the respondents. The Senior Superintendent of Post Offices, Respondent-3 issued order dated 02.11.2018 which is impugned as Annexure A8 in this OA, rejecting the request of the applicant to continue at Kottayam HO.

3. The applicant has 8 years service as Postal Assistant and he assails the transfer order on various grounds. The first is that the minimum tenure prescribed for an incumbent at each station is 4 years but he is being transferred well before this period is completed. As per Rotation Transfer Policy of Postal Assistants issued by 3rd Respondent on 25.06.2018 (Annexure A3), it is clearly indicated that officials in sensitive places are to be rotated every three years. The applicant who is currently, not functioning in a sensitive post has not completed 3 years in his present post. Besides the applicant has put in only 8 years service and 2 more years are left for him to aspire for MACP-1 .

4. The applicant is neither a LSG nor a MACP official and is one of the junior most official in the Postal Division. Examining the guidelines relating to the posting of Branch Post Masters, this Tribunal in OA No.601/2018 had decided:

..... The respondent Department itself has ordered that only a person having MACP-1, that is, ten years of experience ought to be considered for charge of Branch Post Offices. This direction of the respondent Department itself issued in 2011 has been more honoured in the breach than in the observance and in O.A.Nos.180/652/2018, 180/601/2018 & 708/2018, Postal Assistants having less than ten years period of experience have been moved out to head Branch Post Offices. These persons who have not completed their

.4.

tenure as required in the Transfer Policy and those who have not gained at least MACP-I have a strong case of not to be put in-charge of Sub Postmaster as per respondent's own circular of 25.8.2011.

The Tribunal had relied upon the instructions issued by Chief Post Master General for regulating the posting of Sub Post Masters and the said instruction is at Annexure A7.

5. Thus the applicant contests his transfer on the ground that he is not an MACP official and also under the ground that he has not completed 4 years at his present station. The respondents in the reply statement have not denied either of these contentions. It is stated that the transfer has been ordered as a part of rotational transfer. As a part of rotational transfer he has been transferred to Meenadom which is only a short distance from his present work place, Kottayam. The respondents also aver that the applicant is technically equipped to handle the daily work of a Post Office. It is further stated that he has completed 3 years at Kottayam at the same time admitting that “the applicant has not completed minimum tenure at Kottayam HO”. He had worked as an Treasurer, a sensitive post for 2 years at Kottayam HO and one year at the same office as Postal Assistant, thereby working for 3 years at the same station. While it is a fact that the applicant had not been granted MACP, he was given MACP-1 training at Mysuru from 15.05.2017 to 27.05.2017.

6. It is further stated that the applicant occupies position of 130 out of 219 in the Gradation list of Postal Assistants as on 01.07.2017 and that the

.5.

Meenadom post to which he is posted is a sensitive post and it has to be filled. There are several instances of officials junior to the applicant working as Sub Post Masters at various stations. The respondents' statement has also given details of officers who are MACP-1 but have not been posted as Branch Post Master. The statement goes on to state various judicial pronouncements wherein it has been stated that ordinarily a Tribunal or Court is not expected to interfere with transfer orders.

7. Heard Shri Sajith Kumar, learned Counsel for the applicant and Shri P.R.Sreejith, learned ACGSC. As is seen above, Respondent-3 has considered the contentions of the applicant and issued the impugned order. But it does not appear that the authority has given due weightage to the two contentions that the applicant has raised. During arguments it was admitted on behalf of the respondents that the normal tenure of the post is 4 years, an incumbent in a sensitive post being rotated after 2/3 years. The applicant is not holding a sensitive post now and well short of 4 years tenure in his present post. Secondly, in the instructions issued by the Chief Post Master General on 25.08.2011, copy of which is available at Annexure A7, while considering deployment of officers, it has been ordered as follows:

“..... There is no dearth for MACP-3, MACP-2 and MACP-1 officials in any postal division. Hence there is no justification in posting newly recruited officials as SPMs in single-handed and B-class offices. It is reiterated that, time-scale PAs should not be posted as SPMs of any post offices under any circumstances.”

8. In OA No.601/2018 the respondents had been instructed to consider the

.6.

request of the applicant for retention in the present post in accordance with the Regulation/Rules in force. We see that while considering the case afresh, Respondent-3 failed to appropriately consider the core issues involved in the contentions of the applicant. Facts being so, we allow the OA. No costs.

(Dated this the 6th day of December 2018).

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

sd

List of Annexures in O.A. No.180/00901/2018

1. **Annexure A1** – True copy of the transfer Memo No.B1/3/RT/2018 dated 29.06.2018 issued by the 3rd respondent
2. **Annexure A2** – True copy of the memo No.B42/Rectt/Dlg/2009 dated 08.07.2010 issued by the 3rd Respondent.
3. **Annexure A3** – True copy of the notification No.B1/RT/2018 dated 25.06.2018 along with vacancy position issued by the 3rd respondent.
4. **Annexure A4** – True copy of the General Transfer Policy by order No.141-141/2013-SPB-II dated 31.01.2014 issued by the First Respondent.
5. **Annexure A5** – True copy of the Order No.25-04/2012-P.E.I dated 27.05.2016 issued by the First Respondent.
6. **Annexure A6** – True copy of the Order in OA 601/2018 and connected cases 04.10.2018 by the 3rd Respondent.
7. **Annexure A7** – True copy of the circular No.ST/9-2/SR/2011 dated 25.08.2011 issued by the office of the 2nd Respondent.
8. **Annexure A8** – True copy of the transfer Memo No.B/CAT/9/2018 dated 02.11.2018 issued by the 3rd respondent.
9. **Annexure R1**- True copy of the Directorate Letter No.4-7/2009-Vig dated 08.03.2018.
10. **Annexure R2** – True copy of the Memo No.B1/18/MACP/Dlg dated 24.04.2017.
11. **Annexure R3** - True copy of the extract of page of Gradation list of PAs of Kottayam Dn as on 01.07.2017.
12. **Annexure R4** – True copy of consolidated list of officials who are willing to be posted as SPMs.
13. **Annexure R5** – True copy of minutes of Transfer & Placement Committee dated 29.06.2018.
14. **Annexure R6** – True copy of order dated 02.02.2017 of Hon'ble CAT in OA 624/2016.
15. **Annexure R7** – a true copy of judgment dated 15.03.2017 of Hon'ble High Court in OP (CAT) 48/2017.