

OA.No.170/00125/2017/CAT/Bangalore Bench  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00125/2017

DATED THIS THE 24<sup>th</sup> DAY OF NOVEMBER, 2017

HON'BLE SHRI DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Smt.Mohini.B

Age:49 years

W/o Sri K.S.Panduranga

Working as GDS BPM

Kumbala B.O. and

Residing at:

Kavur, Mangalore.

.....Applicant

(By Advocate Sri P.Kamalesan)

Vs.

1. Union of India  
Represented by Director General  
Department of Posts  
Dak Bhavan  
New Delhi-110001.
2. Post Master General  
S.K.Region  
Bangalore-560001.
3. Chief Post Master General  
Karnataka Circle  
Bangalore-560001.
4. Senior Superintendent of Post Offices  
Mangalore Postal Division  
Mangalore-575001.
5. Smt.Meenakshi  
GDS BPM  
Bandel B.O.  
Mangalore-575001.

....Respondents

(By Advocates Sri S.Prakash Shetty & Sri K.Govindaraj for R5)

## ORDER

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicant has filed the present OA seeking the following relief:

*i. Quash the letter No. STA/22-12/SF/Tfr/MB/2015 dated: 29-12-2016, issued by the Chief Post Master General, Karnataka Circle, Bangalore-560001 (Annexure-A10).*

*ii. Direct the respondents to consider the applicant's request transfer to Bondel, in accordance with DG posts letter No. 19-10/2004 GDS dated: 17-7-2006 vide Annexure-A11.*

2. From the submissions made in the OA and the reply statement, the facts of the case emerges as follows:

The applicant was initially appointed as GDSBPM at Karbala Road Branch Office w.e.f. 6.1.1997. When the Karbala BO was closed, the applicant was redeployed as GDS BPM at Kumpala BO in September 2009 which is nearly 15 km away from her residence. The post of GDS BPM at Bondel BO was TO become vacant on 7.5.2015 as the incumbent of the post was due for termination on attaining the age of 65 years. It appears that two persons viz. the applicant and one Smt. Meenakshi (5<sup>th</sup> respondent) have submitted applications for transfer to Bondel BO. The applicant claims to have submitted the application for transfer on 30.1.2015 which is disputed by the respondents. They have also included a statement of the applicant before the ASP(R), Mangalore Dvn. wherein it is mentioned that the applicant claims to have sent transfer application through her husband on 30.1.2015 but she did not know to whom the said request was given. She also mentioned that on enquiry with the Asst. Supdt. of Post Offices who visited her office for inspection as to whether she can request for transfer

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to Bondel BO, she was informed that she could apply in the prescribed application form. Thus there is a dispute regarding the application filed by the applicant on 30.1.2015. In any case the applicant submitted a fresh application on 14.5.2015 which was received by the Mangalore DO on 18.5.2015 and was forwarded to SK RO who received on 21.5.2015. Since the application appeared incomplete, a communication was sent by the office of the Post Master General, South Karnataka Region to the Sr.Suptd. of Post Office to provide complete information by documentary proof which was furnished on 22.6.2015. Thereafter it was received by the Circle Office at Bangalore on 22.7.2015. On the other hand the 5<sup>th</sup> respondent Smt.Meenakshi submitted an application on 15.4.2015 which was received by the Mangalore DO on 12.5.2015 and was received at SK RO on 14.5.2015 and the same was received by the circle office on 22.5.2015 and her request for posting at Bondel BO was approved on 10.6.2015 and she has joined there. According to the applicant, she was senior to Smt.Meenakshi and was posted at Kumpala BO against her willingness and hence she should have been considered for transfer to Bondel BO which is nearer to her residence. She made further representation on 26.6.2015 and 22.8.2015 and she was informed by the Post Master General, SK Region that her request for transfer was rejected by the competent authority. On further representation to the Chief Post Master General on 4.3.2016 and on 19.12.2016, a detailed communication dated 29.12.2016 was sent to her by the Director of Postal Services explaining the entire position. It also indicates that applications under Rule 3 are considered on 'first come first served basis' and no extra weightage is given for redeployed candidate over other reasons like marriage, health grounds etc. They have also informed that whenever vacancy arises in the

nearby places of Bondel BO, the applicant may apply for the same with details well in time for consideration.

3. The applicant has referred to DG Posts letter dated 17.6.2006 regarding limited transfer facility to GDS and submits that when she was redeployed she was promised that she should be given preference in future vacancy nearby her residence and she forwarded her application with full details which was deliberately delayed by the 4<sup>th</sup> respondent which has resulted in not considering her application on account of delay by the competent authority. Hence she prayed for granting the relief as sought by her.
4. The respondents stand is that there is nothing malafide in the entire process. There is no information regarding request of the applicant dated 30.1.2015. The subsequent application submitted by the applicant on 14.5.2015 did not contain all details and was incomplete. Further clarification had to be obtained and by the time the application of the applicant complete in all respects was received by the 2<sup>nd</sup> respondent, the application of the 5<sup>th</sup> respondent has been considered and approved for transfer to Bondel BO. No assurance was given to the applicant at the time of her redeployment as contended and transfer was made on 'first come first served basis'(with complete details). Therefore there is nothing malafide or unjustified in the action taken by the respondents.
5. During the hearing, both sides made submissions on the lines mentioned in the OA and reply statement which has been highlighted in the preceding paras.
6. We have carefully considered the facts of the case and submissions made by either side. The only issue involved in the present case is whether the

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action of the respondents in the matter of transfer of GDS employee to a vacant post i.e Bondel BO is justified or not. The communication dated 29.12.2016 by the Director of Postal Services to the applicant which is under challenge is self-explanatory and provide all the facts regarding submission of application by the applicant as well as the 5<sup>th</sup> respondent who was considered for transfer to Bondel BO. Though the applicant had claimed that she had earlier submitted representation on 30.1.2015, neither she enclosed a copy of the same in the OA nor mentioned this fact in her statement made before the ASP on 19.10.2015 which is enclosed as Annexure-R3. It is clear that the applicant submitted the application on 14.5.2015 whereas the 5<sup>th</sup> respondent has submitted application on 15.4.2015. There is also no denying the fact that the application of the applicant was incomplete. This has not been contradicted by the applicant herself. Therefore when the clarification/details of the application was provided, the transfer of Smt.Meenakshi(5<sup>th</sup> respondent) has already been approved. From the records and also the submissions made by either side, we do not find anything malafide on the part of the respondents to deny the transfer of the applicant. The issue of seniority would also not apply in this case as highlighted by the respondents and the request was to be considered on 'first come first served basis'.

7. The Courts had limited role in the transfer matter as held by various High Courts as well as Hon'ble Apex Court. The interference of the Tribunal is not necessary unless it is in violation of any mandatory statutory rules or on the ground of malafide. In this case there is neither any violation of any rules nor there is any malafide in the entire process which calls for interference by this Tribunal.

8. On detailed consideration of the matter, we are of the view that the contention of the applicant does not merit any consideration and accordingly, the OA being devoid of any merit stands dismissed. No order as to costs.

(P.K.PRADHAN)  
MEMBER (A)

(DR.K.B.SURESH)  
MEMBER (J)

/ps/

- Annexure-A1: Copy of Post Master General, S.K.Region, Letter No.SK/STA/35-2/Tfr/46-47/2014 Dated:8.6.2015
- Annexure-A2: Copy of Senior Superintendent of Post Offices, Mangalore Division, Letter No.BII/GDS/Tfr/Dlgs dated:22.6.2015
- Annexure-A3: Copy of representation dated 26.6.2015
- Annexure-A4: Copy of representation dated 22.8.2015
- Annexure-A5: Copy of Chief Post Master General letter No.STA/22-12/SK-TFR/MB 2015 dated: 21.9.2015
- Annexure-A6: Copy of Post Master General, S.K.Region letter No.SK/STA/35-2/Tfr/46/2015 dated 14.1.2016
- Annexure-A7: Copy of CPMG Karnataka Circle letter No.STA/22-12/SK TFR/MB/2015 dated 29.1.2016
- Annexure-A8: Copy of representation dated 4.3.2016
- Annexure-A9: Copy of representation dated 19.12.2016
- Annexure-A10: Copy of CPMG Karnataka Circle letter No.STA/22-12/SK-TFR/MB 2015 dated 29.12.2016
- Annexure-A11: Copy of DG, P&T letter No.43-4/77-Pen dated:23.2.1979, G.I. Dept. of Posts Lr.No.19-10/2004-GDS dated.17.7.2006 and G.I., Dept. of Posts, Letter No.DG. 19-10/2004-GDS(Part), dated 21/22.7.2010

**Annexures with reply statement:**

- Annexure-R1: Copy of application dated 14.5.2015 of applicant
- Annexure-R2: Copy of Rule 3 of GDS Conduct Rules 2001 Part A, B & C
- Annexure-R3: Copy of statement dated 19.10.2015 made by applicant

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