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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00243/2019

Tuesday, this the 16th day of April , 2019

CORAM:

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

Shri C.Sreenivasan,
S/o late C.Koru,
Aged 57 years,
AHRO (HSG II) Accounts Supervisor,
Department of Posts,
Head Record Office, Calicut – 673 032.
residing at Chalappurah House, PO.
Azhinhilam, Via Farook College-673 032,
Malappuram District, Kerala.Applicant

(By Advocate Mr.V.Sajith Kumar)

Versus

1. Union of India,
Represented by Secretary
to Government, Department of Posts,
Ministry of Communications,
Government of India,
New Delhi – 110 001.
2. The Post Master General,
Northern Region,
Department of Posts,
Calicut – 673 011.
3. The Chief Post Master General,
Department of Posts,
Kerala Circle,
Thiruvananthapuram -695 033.

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4. The Superintendent,
Department of Posts,
RMS CT Division,
Calicut – 673 032.Respondents

(By Mr. T.C.Krishna, SCGSC for Respondents)

This application having been heard on 11th April, 2019, the Tribunal on 16th April, 2019 delivered the following :

ORDER

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

OA No.243/2019 is filed by Shri Sreenivasan, Accounts Supervisor-I (AHRO), aggrieved by the transfer order at Annexure A1 dated 15.03.2019, transferring him to SRO Palakkad. He assails the transfer on the ground that he is already 57 years old and is at the fag end of his service and a transfer to a place of 130 kms without considering his preference is unjustified and should be recalled. He further submits that he is a physically handicapped person and is entitled to protection under Disabilities Act. He had entered service as Postal Assistant in 1982 and in 1991 had obtained an Inter Circle transfer to Kerala, joining his present station, RMS CT Division, in the year 1992. He has obtained two promotions during his service.

2. The applicant submits that as per Annexure A5, he is certified as physically handicapped with 40% disability in Visual abilities. He has also been working in Accounts and has expertise only in Accounts line and a posting in HSG general line ordered in Annexure A2 and A3 had been

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rescinded on account of his representation earlier. According to guidelines issued by Department of Personnel and Training, persons with disabilities are to be exempted as per the Rotational Transfer Policy and are to be allowed to continue with the same job where they would have achieved desired performance. A copy of the guidelines is at Annexure A6. Also as per the transfer guidelines issued by the Department of Posts itself, an employee is entitled to minimum of three years tenure and the applicant had been posted in his present post only on 18.09.2018 as per Annexure A4. Inspite of these factors, the 4th Respondent directed the HRO to relieve the applicant immediately on receipt of Annexure A1 (Annexure A8). One Sasidharan, working as SRO Palakkad is posted at RMS Calicut, at his place. The applicant had filed representation before the 2nd Respondent on 16.03.2019 and had followed up with a personal meeting, but he has received no reply to his representation.

3. As grounds, the applicant submits that he is 57 years and 11 months. As a physically handicapped person he is not in a position to adjust to a different field, such as General line of supervisory task.

4. The learned Counsel for the respondents have filed a Counsel statement wherein respondents have disputed the contentions raised by the applicant. The applicant is a HSG-II cadre official and there is no categorisation of Accounts line and General line as contended by the

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applicant. Annexure A7 guidelines are superseded by the revised transfer guidelines dated 17.01.2019 at Annexure R1. As per this, a tenure of an employee in a post is three years and station tenure is six years. The applicant has been working at the same station from 1992 onwards which clearly is in far excess of maximum tenure of one station. As regards, his claim that he is physically handicapped individual, it is submitted that he has not been recruited under physically handicapped quota and no such reservation was claimed in his career as he never brought his disability to the notice of the authorities. There is no mention of this status in any of the representations submitted by the applicant to the respondents either. Annexure A5 certificate issued in 2010 has not been submitted by him earlier. It is further stated that there is an administrative need to retain only one employee in the post HSG-II AHRO post at Calicut in view of shortage of staff in the division. The incumbent of the post at Palakkad had retired and the post was in need of a substitute.

5. Heard Shri Sajith Kumar, learned Counsel for the applicant and Shri T.C.Krishna, learned ACGSC for the respondents. The applicant has no case for being retained at a station where he has spent nearly 28 years, other than the fact that as a disabled employee he is entitled to protection. However, a close scrutiny of the medical certificate at Annexure A5 issued on 27.11.2010 which had not been brought to the notice of the respondents so far, reveals that he suffers from moderate condition of visual disability and was

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recommended a reassessment after a period of 5 years. We have no information with us to see whether he had subjected himself to such reassessment. He submits that he has been working in Accounts line throughout and would like to remain in that line. The respondents have replied that there is no such Accounts line and General line in the organisation and belonging to HSG category, he will be required to work in whatever role he is assigned. As a candidate who has not been recruited on the basis of reservation for physically disabled, the applicant cannot claim any special protection under the Disabilities Act. The guidelines issued as per Annexure R3 is also clear and unambiguous on the matter of rotation of personnel.

6. Under the circumstances, we see no merit in the applicant's case. It is reported that the applicant had already joined at the new station. We are of the view that interests of justice will be met if Respondent No.2 is directed to consider the representation made by the applicant, copy of which is available at Annexure A9. He shall do so within 30 days of receipt of a copy of this order and take a view on the applicant's request as deemed appropriate. OA is disposed of as above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00243/2019

1. **Annexure A1** – True copy of the Memo No.Staff/77-2/04-05 dated 15.03.2019 issued by the Office of the 2nd Respondent.
2. **Annexure A2** - True copy of the Order No.ST/18/15/2017-18 dated 28.07.2017 issued by office of the 3rd respondent.
3. **Annexure A3** - True copy of the Order No.ST/18/15/2017-18 dated 31.10.2017 issued by the Assistant Postmaster General (Staff).
4. **Annexure A4** - True copy of the posting order No.Staff/77-2/04-05 dated 18.09.2018 issued by the office of the 2nd Respondent.
5. **Annexure A5** - True copy of the certificate dated 27.11.2010 issued by the Medical Board, Department of Health Services.
6. **Annexure A6** - True copy of the relevant pages of the guidelines issued as per Memo No.36035/3/2013-Estt.(Res) dated 31.03.2014 issued by the Department of Personnel and training.
7. **Annexure A7** - True copy of the relevant pages of the transfer guidelines No.F.No.141-141/013-SPB-II dated 31/7/2018 issued by the 1st Respondent.
8. **Annexure A8** - True copy of the Memo No.B1/8/TFR/Vol I dated 15.3.2019 issued by the 4th Respondent.
9. **Annexure A9** - True copy of the representation dated 16.03.2019 submitted by the Applicant.
10. **Annexure R1** - True copy of the revised transfer guidelines along with Directorate letter No.141-141/2013-SPB-II dated 17.01.2019.
