CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No.180/00904/2018

Wednesday, the 13th day of February, 2019

CORAM

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

Subhadrakutty Amma P.P
W/o.Sreekumar.K.A, aged 58 years
Sub Post Master, Thirunakkara, Kottayam Division
residing at Kottiyattu House
Parippu P.O, Kottayam District -686 014 ..... Applicant

(By Advocate:Mrs.Rekha Vasudevan)

Versus

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

2. The Chief Post Master General, Department of Posts
Kerala Circle,Thiruvananthapuram -695033

3. The Post Master General, Department of Posts
Central Region, Kadavanthra, Cochin – 682020

4. The Senior Superintendent of Post Offices, Kottayam Division
Kottayam 686 001

5. Shri.Alexin George IPS,Assistant Director General
International Mails, Dak Bhavan,
New Delhi - 110001 ... Respondents

(By Advocate: Mr.K.Kesavankutty for R 1-4)

This application having been taken up on 5th February, 2019, this Tribunal delivered the following order on 13.2.2019.

O R D E R

Per: **MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

O.A 180/904/2018 has been filed by Mrs.Subhadrakutty Amma P.P, Sub Post Master, Thirunakkara, Kottayam Division aggrieved by Annexures A11 and A-17 orders issued by 4th respondent. The reliefs sought in the Original Application are as follows:

> "a. Quash Annexure A-17 order dated 2.11.2018 issued by the 4th respondent and Annexure A11 transfer order to the extent it transfers the applicant from her present station at Kottayam Head Post Office to Kudumaloor Post Office.
>
> b. Declare that the applicant herein is entitled to be transferred to her choice station at Kottayam Head Post Office till her retirement.
>
> c. Direct the 4th respondent to transfer the applicant to Kottayam Head Office and to continue her at Kottayam Head Office till her retirement from service.
>
> d. To grant such other reliefs as may be prayed for and the court may deem fit to grant, and
>
> e. Grant the cost of this Original Application. "

2. The brief facts of the case are as follows:

The applicant is presently working as S.P.M Thirunakkara and by impugned Annexure A-11 order, she has been transferred to Kudamaloor SO as SPM despite availability of vacancies at the station to which she had submitted her choice. She is further aggrieved by the rejection of her representation by the 4th respondent. Applicant alleges malafides in the present transfer against Senior Superintendent of Post Offices, Kottayam Division also.

3. In compliance with the directions of the Hon'ble Apex Court in **T.S.R.Subramanian and others** v. **Union of India and others** (2013) 15 SCC 732, respondent no.1 had issued Annexure A-1 notification and Annexure A-2 Transfer Policy to regulate transfers of officers other than the officers of Indian Postal Service, Group A of the Department.

4. DoP&T also issued Annexure A-4 O.M directing all departments to frame a Transfer Policy. The 4th respondent issued Notification dated 25.6.2018 calling for options for rotational transfer vide Annexure A-5 as per which when posting of SPMs in B and C class offices is made, junior most officials in MACP I will be posted if there is no willing official for the post. Only 4 vacancies were available in the Kottayam Head Office where the officials have completed their tenure and were due for transfer. Vide Annexure A-7, a list of officials in the Kottayam Division who have completed their tenure as on 30.09.2018 was forwarded to respondent no.4.

5. By virtue of Annexure A-11 impugned order, the applicant herein is now transferred as SPM Kudamaloor SO. Applicant submits that she has completed thirty years of service and is due for her MACP III. She has submitted her options for transfer vide representation at Annexure A-12. However, her request was not acceeded to and she was transferred to a Class C office which ought to have been manned by a Junior MACP I official.

6. Applicant has submitted Annexure A-13 representation narrating various grievances against this transfer. During the pendency of the same,

respondent no.1 issued new guidelines reducing four years' tenure to three years vide Annexure A-14. As the representation was not responded to, the applicant was constrained to approach this Tribunal with O.A No.690/2018. Later it was disposed of by a common order directing the competent authority to consider the matter afresh after giving a personal hearing to the applicant (Annexure A-15). However, the 4th respondent has now rejected the representation vide Annexure A-17 order. Aggrieved by Annexure A-17 order, applicant has approached this Tribunal again by filing this O.A.

7. Respondents have filed a detailed reply statement and submitted therein that rotational transfer order 2018 was issued after considering the representations of the officials along with operational needs of the Division and had been duly approved by the Transfer and Placement Committee. It is submitted that the applicant was posted as SPM Thirunakkara (Non delivery C Class office) at her request and joined on 13.6.2015 and has completed her tenure there. She has submitted her choice station requests for Kottayam HO and Divisional Office Kottayam. Due to the administrative exigencies the applicant was transferred and posted as SPM Kudamaloor SO. It is also submitted that the transfer was effected taking into account the capabilities of the respondent and the decision was taken by the Transfer and Placement Committee and not by the 5th respondent alone. Respondents relied upon Hon'ble Supreme Court's judgment in **Shilpi Bose (Mrs.)** v. **State of Bihar and Others** to state that a government servant has no vested right to remain posted at one place and he is liable to be transferred from one place to another.

8. Applicant has filed rejoinder thereto reiterating the contentions in the O.A.

9. Heard Mrs.Rekha Vasudevan, learned counsel for the applicant and Mr.K.Kesavankutty,ACGSC, learned counsel for respondent nos.1-4. Perused the documents.

10. This is the second round of litigation entered into by the applicant on this issue. The main grievance of the applicant is that she has been transferred out of his present Station without considering her choice stations. Transfer is not a vested right of the employee and the Central Government employees are liable to be transferred anywhere in India. The Hon'ble Apex Court has held in a catena of judgements that the courts can interfere in the matter of transfer only when violation of Rules/Guide lines for transfer occurred. It is admitted that the applicant has not been posted to her choice station. While there are parameters contained in the guidelines, we have to examine other factor such as administrative exigency also. It is reported by the respondents that there is a shortage of officials who can be posted as SPMs and several of these posts are not so far filled up. From this perspective, there can be nothing wrong in the respondents transferring persons who are experienced and eligible for such transfers if administrative exigency so requires. The second important factor is the degree of difficulty thus caused to the individual concerned. In this case, she has been posted to a place which is almost in the vicinity of her earlier station.

11. Transfer is an exigency of service and the respondent department at times has no other choice but to deploy people in stations where they do not wish to go. We are of the view that the transfer of the applicant does not amount to undue harassment of the said employee.

12. This Original Application lacks merit and is liable to be rejected. We do so. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

sv

List of Annexures

Annexure A1 - True copy of the Letter No.4-09/2011-SPG(Pt) dated 10.1.2014 addressed by the 1st respondent to all Chief Postmasters General

Annexure A2 - True copy of the letter No.141-141/2013-SPB-II dated31.01.2014 addressed by the 1st respondent to the Chief Postmasters General along with the Consolidted Tranfer Policy

Annexure A3 - True copy of letter No.4-09/2011-SPG(Pt) dated 30.3.2015 issued by teh 1st respondent

Annexure A4 - True copy of the Office Memorandum No.11013/10/2013-Estt.A dated 2.7.2015 issued by the Department of Personnel and Training

Annexure A5 - True copy of the Notification No.B1/RT/2018 dated 25.6.2018 issued by the 5th respondent

Annexure A6 - True copy of the vacancy position in the Kottayam Division for the Rotational Transfer 2018 issued in the official website of the Department

Annexure A7 - True copy of the List of official completing tenure as on 30.9.2018 as forwarded to the 4th respondent by the Senior Post Master, Kottayam

Annexure A8 - True copy of the application dated 3.8.2018 submitted by Sri.Vinayakumar.S to the office of the 4th respondent

Annexure A9 - True copy of the Letter No.CPT/RTI/99-2018 dated 5.9.2018 issued to Sri.Vinayakumar from the office of the 4th respondent

Annexure A10 - True copy of the Minutes of the Meeting convened on 29.6.2018

Annexure A11 - True copy of the Memo No.B1/3/RT/2018 dated 29.6.2018 issued by the 4th respondent

Annexure A12 - True copy of the representation dated 28.6.2018 submitted by the applicant to the 4th respondent.

Annexure A13 - True copy of the representation dated6.7.2018 submitted by the applicant to the 4th respondent

Annexure A14 - True copy of the Notification F.No.141-141/2013-SPB-II dated 31.7.2018 issued by the 1st respondent

Annexure A15 - True copy of the order dated 4.10.2018 in O.A180/690/2018 of this Tribunal

Annexure A16 - True copy of the Hearing Note submitted by the applicant to the 4th respondent

Annexure A17 - True copy of the Memo No.B/CAT/13/2018 dated 2.11.2018 issued by the 4th respondent

Annexure A18 - True copy of the orderno.ST/42-43/2014 dated10.10.2018 issued by the 3rd respondent

Annexure R1 - True copy of the Postal Directorate letter No.4-7/2009-Vig dated 8.3.2018

Annexure R2 - True copy of RO Kochi letter No.ST/1-32/2012/Rigs dated 9.4.2015

Annexure R3 - True copy of order dated 2.2.2017 of Tribunal in O.ANo.624/2016

Annexure R4 - True copy of judgment dated 15.3.2017of High Court of Kerala in OP(CAT) 48/2017

Annexure A 9 - True copy of the Judgment dated dated 11.12.2012 in OP(CAT) No.4278 of 2012 of the Hon'ble High Court

. . .