

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO. 180/00007 of 2018**

**Friday, this the 9<sup>th</sup> day of August, 2019**

## CORAM

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

R.Sajitha, aged 46 years  
W/o.G.Rajesh  
Accountant, Aluva Head Post Office  
Aluva 683 101  
Residing at “Sivakripa”, Mambra PO,  
West Koratty  
Thrissur District , Pin 680 308

(By Advocate Mr. Shafik M.A)

## Versus

1. Union of India, Rep. by the Secretary  
to Government of India/Director General of Posts  
Department of Posts  
Ministry of Communications  
Sanchar Bhavan  
New Delhi -110 001
2. The Chief Postmaster General  
Kerala Circle, Thiruvananthapuram – 695 033
3. The Postmaster General  
Central Region, Kochi – 682 020
4. The Superintendent of Post Offices  
Aluva Division, Aluva 683 101

..... **Respondents**

(By Advocate Mr.N.Anilkumar,SCGSC)

The above application having been finally heard on 31.7.2019, the Tribunal on 9.8.2019 delivered the following:

**ORDER**

*Per: Mr.Ashish Kalia, Judicial Member*

Original Application No.180/00007/2018 is filed by Mrs.R.Sajitha, Accountant of Aluva Head Post Office. The reliefs sought in the Original Application are as follows:

“(i) To call for the records relating to Annexure A-1 to A-19 and direct the 2<sup>nd</sup> respondent to re-fix the seniority of the applicant in A-17 Circle Gradation List in terms of A-19 OM determining the relative seniority of the applicant by the order of merit in which she was selected for appointment as SA by the selecting authority and further ensuring that the applicant is placed senior to all those Pas selected and appointed as a result of subsequent selection, and to give Rank and seniority to the applicant accordingly, in A-17 Circle Gradation List of Pas;

(ii) To declare that the transfer of the applicant from Sorting Assistant to Postal Assistant ordered under Annexure A-5 is a redeployment and not a Rule 38 transfer at request and the transfer is essentially one under Rule 37 of Postal Manual Volume IV ordered for administrative reasons;

(iii) To pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case;

(iv) To award costs of this proceedings. ”

2. Applicant commenced her services in the Postal Department on 28.1.1992 as Sorting Assistant in RMS 'CT' Division, Calicut by regular recruitment process. She continued there up to 20<sup>th</sup> April 2004. After completion of induction training at PTC Mysore on 28.10.1991, she was confirmed on the said post with effect from 2.2.1994. Later on, she was transferred to RMS 'EK' Division, Ernakulam and posted as Sorting Assistant at Irinjalakuda Sorting Office. She was asked to undergo a compulsory training under the scheme of "Re-training of SAs in Postal Operations" at PTC Mysore as per Annexure A-3 Memo issued by the Senior Superintendent, RMS EK Division. On successful completion of the training, she was relieved and joined back at Irinjalakuda Sorting Office. When she was about to be redeployed, she had given her willingness to be posted in Aluva Division and she was posted at Aluva Division vide Annexure A-5 order of the 3<sup>rd</sup> respondent dated 1.4.2004.

3. The applicant further submits that this re-deployment was termed as a transfer at request in all the orders and an undertaking was also obtained from her to the effect that she would not claim any seniority or ask to go back to the old formation. The applicant's name was shown in the Circle Gradation List of Postal Assistants as on 1.7.2008 issued by 2<sup>nd</sup> respondent and her date of entry into continuous govt. service and date of

commencement of continuous service in the grade are rightly shown as 28.10.1991, but the rank and seniority given to the applicant is at Serial No.3883. It is observed that, vide Annexure A-7, she was pushed down far below the Postal Assistant recruits appointed in the year 2004 and given her seniority just below them. The date of substantive entry into the grade is also left blank even if the applicant was confirmed in the grade as Sorting Assistant on 2.2.1994. On her re-deployment and transfer under Rule 37 for administrative reasons, she was given rank and seniority in the Circle Gradation List of Postal Assistants as on 1.7.2008 just below the PAs, against which she made a representation on 30.12.2008 to the 2<sup>nd</sup> respondent. However, neither a reply nor any other action was taken to correct her seniority in the Gradation List. In the reply to the RTI request, she has been informed that she was transferred as per her request dated 26.8.2015 (Annexure A-12). It is further submitted by the applicant that the transfer from Sorting Assistant RMS 'CT' Division, Calicut to PA (Postal) is not permissible under Rule 38, which is the relevant Rule dealing with "Transfer of officials at request". As per communication dated 14.12.2009, the respondent office was not entertaining requests for transfers of Sorting Assistants to Postal Assistants. In fact, when a mutual transfer was applied earlier, the same was rejected specifically stating the same. Feeling aggrieved by this, the applicant has approached this Tribunal for redressal of her grievances.

4. Notices were issued and Mr.N.Anilkumar,SCGSC takes notice on behalf of the respondents and filed a detailed reply statement. It is stated therein that Smt.R.Sajitha, whose date of birth is 10.2.1971, joined as Sorting Assistant on 28.1.1992 after training at PTC Mysore from 28.10.1991 to 27.1.1992 . She was posted as Sorting Assistant, SRO, Tirur under RMS 'CT' Division, Calicut on 28.1.1992. She worked under SRO Tirur up to 20.10.1993. Thereafter she was transferred as SA, Head Record Office, Calicut under RMS 'CT' Division. Later, she had applied for a transfer to RMS EK Division under Rule 38 and she was transferred as SA, SRO, Irinjalakuda with effect from 20.10.1998. The Circle office vide letter dated 17.4.2002 sought willingness of the younger officials with less than 10 years of service for the training. It is further stated that though the Recruitment Rule is same for both the cadres , recruitment for each wing is done separately and recruiting authority is different and induction training for both the streams are different. It is further stated that SRM has deputed Sorting Assistants for training at PTC Mysore as per the above said direction and the applicant was also sent for training. The main intention of imparting such training was to give awareness to the officials in RMS Wing in Postal Operations to meet the changing scenario of the Department and not for compulsory redeployment to Post Office. The applicant was also deputed for retraining of SAs in Postal Operations from 7.10.2002 to

2.11.2002. It is evident from Annexure A-4 that many officials from various circles had reported for retraining of Sorting Assistants in Postal Operations. After successful completion of the above training. She has been posted to RMS EK Division. While so, the applicant had submitted her request on 30.7.2003 to the CPMG, Kerala Circle for a transfer to Aluva Postal Division as she is residing at Manickamangalam, near Kalady in Aluva Postal Division and sought a posting at Kalady P.O or nearby places which will be very convenient for her personal life. Considering her request, she was granted transfer from RMS wing to Aluva Postal Division as Postal Assistant and the request was entertained under Rule 38 in the request transfer register maintained by the Superintendent of RMS EK Division. With the following conditions :

- “ i) She will be ranked junior most in the new recruiting unit;
- ii) She will be permanently debarred from going back to the old recruiting unit and;
- iii) She cannot claim the old seniority in the earlier recruiting unit.”

5. On the basis of above guidelines, the request of the applicant for transfer from RMS Wing to Postal Wing granted in accordance with PMG order dated 1.4.2004 and allowed to join as Postal Assistant in Aluva Postal Division after obtaining declaration that she agrees to the above conditions.

Now, she cannot turn around to seek re-fixation of her seniority at this distant point of time. Respondents pray for rejection of the Original Application.

6. Heard Mr.Shafik M.A, learned counsel for the applicant and Mr.N.Anilkumar,SCGSC, learned counsel for the respondents. Perused the records.

7. The basic contention raised in the Original Application filed by the applicant is whether her transfer to Aluva Postal Division from RMS EK Division was in public interest under Rule 37 or under Rule 38 as request transfer.

8. Mr.Shafik M.A, learned counsel for the applicant has drawn our attention to Annexure A-21, which reads as follows:

“3. This shows that there is a greater scope for certain activities vis-a-vis traditional activities. There is a visible surplus in most of the RMS divisions and, therefore, there is need for redeployment of surplus manpower to the areas of activities. There is also an urgent need keeping in view of the greater uniformity of the functions performed by the subordinate staff in the field formations to have a unified cadre of assistants who could be deployed for a variety of operations and who could be trained to perform multifarious functions. It is, therefore, necessary that comprehensive training may have to be provided to the

Sorting Assistants for deployment in other postal activities. The training would cover savings banks, sub accounts, counter functions, delivery and procedures relating to new products and services. It is felt that a four week training programme could be devised to reorient the Sorting Assistants for new kind of duties. This would include an element of computer training on 'Meghdoot' and 'Sanchay Post'.  
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5. Simultaneously, till the trainers are trained it has been decided to train at least 100 Sorting Assistants from each Circle with regard to various other postal functions as indicated above on a standard training package devised by the Postal Training Centre, Mysore at the Postal Training Centres. While drawing list of such 100 personnel it may kindly be seen that no official who is superannuating in the next five years is picked up. Preference should be given to officials who have a maximum of 10 years of service in the Sorting Assistants cadre. Once the trainers have been trained the standard training package can be replicated at the Divisional, Regional or Circle level with the help of these trainers. I am endorsing a copy of this letter to the Directors of the Training Centres so that they can plan this activity.”

9. By taking this letter, learned counsel has tried to convince this Tribunal that the transfer of the applicant falls under Rule 37 instead of Rule 38 request transfer, but the applicant was surprised to see that her seniority has been pushed down as per the information obtained from CPIO. On the contrary, on the other hand learned counsel for the respondents has drawn our attention to Annexure R-6 dated 30.7.2003 written by the applicant to CPMG making request as under :-

“ I am now working as SA in SRO RMS EK Dn. Irinjalakuda and have successfully completed the retraining of Sas in postal operations at PTC Mysore. Now I wish to get a transfer to the post office under Aluva Postal Division. Since I am residing at Manickamangalam, near Kalady, it will be very convenient if I am posted at Kalady P.O or its nearby place.

The necessary declaration for the transfer is furnished below:

1. I am not eligible for any TA/TP.
2. I will be ranked junior most in the new cadre/recruiting unit.
3. I will be permanently debarred from going back to the old cadre/recruiting unit and I cannot claim the old seniority in the earlier recruiting unit.  
”

10. By this representation, learned counsel for the respondents has tried to impress this Tribunal by stating that the applicant has got training of Postal Operations. She is from a different cadre, i.e, RMS EK Division, and the said training, as pointed out by learned counsel for the applicant was for Postal Assistants only, a different wing altogether. However, the department has sympathetically considered the request of the applicant on conditional basis. The applicant has accepted those conditions also. Thus, she cannot now take the stand that she should be given seniority and her name should be interpolated at appropriate place in the Circle Gradation List.

11. We find force in the stand taken by the respondent for the simple reason that the applicant has made a request for request transfer. Even if she has been considered for the same itself does not give any right for consideration on public transfer. This is meant only for Postal Assistants. The applicant, being a Sorting Assistant, RMS Wing, has come on her own request because she is residing at Manickamangalam, near Kalady and she has been posted to Aluva Division at her own request. Even otherwise by respondent no.1 a policy decision was taken prohibiting Rule 38 transfer on mutual consent and said to be only on redeployment basis with loss of seniority etc. We are not convinced with the applicant's stand that she has been posted in public interest. It was a coincidence that the applicant was considered for sending training to PTC Mysore for training along with Postal Assistants in Postal Wing. But the fact remains that she belongs to RMS EK Division.

12. In view of the above circumstances, we find no merit in the present Original Application and it is accordingly dismissed. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**List of Annexures**

Annexure A1 - True copy of the Memo No.B-46/A/Vol.II dated 23.1.1992 issued by the Superintendent, RMS 'CT' Division, Calicut

Annexure A2 - True copy of the Memo No.B-131 dated 8.9.1998 issued by the Superintendent, RMS CT Division

Annexure A3 - True copy of the Memo No.T/101/PA/02 dated 3.10.2002 issued by the Sr.Superintendent, RMS EK Division

Annexure A4 - True copy of the Arrival report No.TRG-1/2-7/6 dated 30.10.2002 issued by the Office of the Director, PTC, Mysore

Annexure A5 - True copy of the Memo No.ST/42-1/02 dated 1.4.2004 of the Asst. Director of the 3<sup>rd</sup> respondent

Annexure A6 - True copy of the Order No.BB.12/R.38/In dated 8.4.2004 issued by the 4<sup>th</sup> respondent

Annexure A-7 - True copy of the representation dated 30.7.2010 submitted before the 2<sup>nd</sup> respondent

Annexure A-8 - True copy of the RTI request dated 1.11.2012 submitted by the applicant

Annexure A-9 - True copy of the Letter No.ST/36/Rule-38/RTI/08 dated 19.11.2012 issued by the CPIO of the 2<sup>nd</sup> respondent

Annexure A-10 - True copy of the letter No.BB21 dated 21.3.2013 issued by the 4<sup>th</sup> respondent

Annexure A-11 - True copy of the letter No.ST/36-R-38/RTI/1/2015 dated 28.7.2015 of the CPIO of the 2<sup>nd</sup> respondent

Annexure A-12 - True copy of the RTI request dated 26.8.2015 submitted by the applicant

Annexure A-13 - True copy of the letter No.CPT/RTI/R-93/2015 dated 18.9.2015 issued by the CPIO of the 3<sup>rd</sup> respondent

Annexure A-14 - True copy of the RTI request dated 10.7.2017 submitted by the applicant

Annexure A-15 - True copy of the letter No.RTI/R-54/2017 dated 26.7.2017 of the Asst. Director of 3<sup>rd</sup> respondent

Annexure A-16 - True copy of the Letter No.RTI/47/2017-18 dated 18.9.2017 issued by the 4<sup>th</sup> respondent

Annexure A-17 - True copy of the letter dated 7.8.2017 issued by the CPIO of the 2<sup>nd</sup> respondent

Annexure A-18 - True copy of the representation dated 4.12.2017 submitted by the applicant

Annexure A-19 - True copy of the OM No.22011/7/86-Estt.(D) dated 3.7.1986 of the Dept. of Personnel & Training, Govt. of India

Annexure R-1 - A true copy of Directorate letter No.141-198/2001-SPB-II dated 10.5.2002

Annexure R2 - A true copy of declaration furnished by the applicant

Annexure R3 - A true copy of DG Posts DO No.1-37/2001-Trg dated 30.1.2002

Annexure R4 - A true copy of Circle Office letter No.ST/18-48/2002

Annexure R5 - A true copy of DO letter No.DO No.1-37/2001-Trg dated 17.4.2002 of Sr.DDG(CP)

Annexure R6 - A true copy of representation submitted by the applicant on 30.7.2003

Annexure R7 - A true copy of relevant page of transfer request.

Annexure R8 - A true copy of Directorate letter No.60-17/87-SPB I dated 18.5.1987

Annexure R9 - A true copy of transfer order No.ST/42-1/2002 dated 17.1.2003

Annexure R10 - A true copy of an extract of G.I Dept of per. & Trg O.M No.15/2/88-CS III dated 15.6.1992

Annexure R11 - A true copy of an extract of G.I Dept of Per & Trg O.M No.15/3/98-CS III dated 2.12.1998

Annexure A-20 - A true copy of the letter No.23-95/2018-Trg dated 14.3.2018 of the Assistant Director (Training) & CPIO, Postal Directorate, New Delhi

Annexure A-21 - True copy of the letter No.23-100/2018-Trg dated 27.3.2018 of the Assistant Director (Training) & CPIO, Postal Directorate, New Delhi

Annexure A-22 - True copy of the Memo No.B-132 dated 27.7.2005 issued Sr.Superintendent , RMS, Kochi

Annexure A-23 - True copy of the letter No.ST/0-2/CR/2016 (Pt) dated 3.1.2018 issued by the APMG (Staff)

Annexure MA1 - A true copy of order dated 9.5.2018 of this Tribunal in the instant OA .

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