

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.417/97

Monday, this the 11th day of August, 1997.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

C.R Jayakumar,
S/o Chandrasekharan Pillai,
Post man, Punalur Sub-Division,
Residing at Aswathy Bhavan,
Jayavilasom, Ppanayancherry,
Anchal.

..Applicant

By Advocate Ms. Sally Thomas Chacko.

Vs.

1. Union of India represented by
the Secretary to the Department of posts,
Ministry of Communications,
New Delhi.
2. The Chief Post Master General,
Kerala Circle, Thiruvananthapuram.
3. The Senior Superintendent of Post Offices,
Pathanamthitta Division,
Pathanamthitta.
4. M. Vasudevan Nair,
Superintendent of Post Offices,
Pathanamthitta.
5. The Sub Divisional Inspector of Post Office,
Punalur Sub-Division,
Punalur.
6. The Sub Post Master,
Lower Selection Grade,
Anchal.
7. The Post Master,
Punalur Head Office,
Punalur.

..Respondents

By Advocate Mr TPM Ibrahim Khan, Sr.CGSC.

The application having been heard on
11.8.1997, the Tribunal on the same day delivered the
following:

O R D E R

The applicant seeks to quash A-5 order dated
12.3.1997 issued by the 4th respondent.

2. The applicant was working as Postman in Anchal
Sub Division. He was later transferred to Punalur

Sub Division. While working in Anchal Sub Division, he applied for Leave Travel Concession for a trip to New Delhi with his family consisting of his wife, mother and two brothers. Leave Travel Concession was sanctioned as per A-1 dated 13.3.1996 granting a sum of Rs.3500/- by way of advance. He travelled along with his two brothers. He could not take his wife and mother along with him. On return from New Delhi, he submitted A-2 statement before the 3rd respondent. He also refunded an amount of Rs.1042/-. He resumed duty and salary was paid to him for the months of April, May and June. In the month of July, the applicant says, without prior notice or without affording an opportunity to him to show cause, an amount of Rs.2195/- was compulsorily recovered from his salary. Aggrieved by the action of the respondents, he filed OA No. 956/96 before this Bench of the Tribunal. This Bench, on 28.2.1997, allowed the OA directing respondents 3 to 6 to refund the amount already recovered from his salary within two months from the date of receipt of the Order and making it clear that it does not preclude the respondents from taking appropriate action in accordance with law, if it is considered that his claim is bogus. As per A-4, the amount of Rs.2195/- was returned to him. He was again served with A-5, the impugned order, directing him to credit Rs.2458/- with penal interest within ten days of the receipt of A-5.


3. Respondents say that the applicant has not complied with the stipulations contained in Leave



Travel Concession Rules and hence, they are entitled to recover the amount shown in A-5 order. Learned counsel appearing for the respondents submitted that A-1 stipulates the conditions to be complied with by the applicant.

4. The applicant says that A-5 order was passed without notice to him and without affording an opportunity to show cause against the action sought to be initiated and hence, it is violative of the principles of natural justice. According to respondents, Leave Travel Concession claim of the applicant was proved to be a bogus one from the statement given by the applicant during the course of enquiry and hence, there is no violation of the principles of natural justice. A-3 is the copy of the Order in OA No. 956/96. The applicant therein is the applicant herein and the respondents are also the same. It is dated 28th of February, 1997. It is submitted by the learned counsel for both sides that A-3 order has not taken up before the higher forum. That being so, it has become final. Hence, it is binding on the parties inter-se. According to respondents, R.3(C) is the statement given by the applicant which will go to prove that his claim is bogus. It is dated 26th of June, 1996. So, it was very much available when OA No. 956/96 was filed. It was not produced in A-3 proceedings before this Tribunal. In A-3 order it is specifically stated that:


"the fifth respondent conducted certain enquiry unilaterally is no justification at all".



R.3(C) is the basis on which the 5th respondent after an enquiry came to a particular conclusion of which reference is made in A-3 order. So, based on R.3(C) the respondents cannot say that there is no violation of the principles of natural justice.

5. It is a case, glaring enough, the respondents have dealt with flagrantly violating the principles of natural justice, in spite of the specific observation in A-3 order that the impugned order therein was issued in violation of the principles of natural justice. The applicant is now driven back by the respondents practically to the same position as he was immediately prior to the filing of OA No. 956/96. The procedural defect on the part of the respondents was clearly highlighted in A-3 order. With all that the respondents either without understanding the same or pretending that they have not understood the same, have adopted a course which is not accepted by law, while issuing A-5.

6. The respondents cannot plead ignorance of the procedural law. Even if they were ignorant, they were made aware of the procedure to be adopted, in A-3 order. In spite of the same, the respondents' attitude in not complying with the principles of natural justice is only a matter to be deprecated. If the respondents had taken pains to go through A-3 order and understand the contents, the respondents could not have issued an order like A-5 under challenge. It apparently appears to be a case where

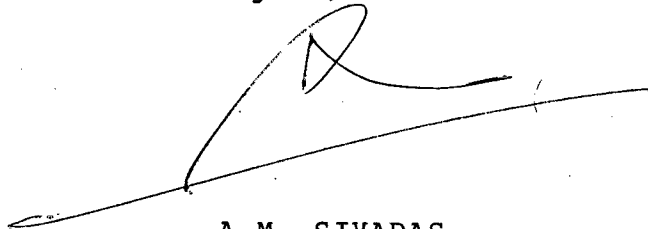


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the respondents are very much particular of dragging the applicant to the Tribunal which could have been avoided.

7. Accordingly, the original application is allowed quashing A-5 order dated 12.3.1997 with costs which I fix at Rs.500/- (Rupees Five Hundred).

Dated the 11th of August, 1997.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small flourish.

A.M. SIVADAS
JUDICIAL MEMBER

AK.11/8

List of Annexures

1. Annexure A.1 Memo No.LTC/Adv.33/95-96 dated 13-3-1996 issued by the third respondent in favour of the applicant
2. Annexure A.2 Statement dated 2-4-1996 submitted by the applicant before the third respondent
3. Annexure A.3 Judgment in OA 956/96 dated 28-2-1997 of Central Administrative Tribunal, Ernakulam
4. Annexure A.4 Order dated 6-3-1997 issued by the 7th respondent in favour of the applicant
5. Annexure A.5 Order No.LTC/Adv/33/95-96 dated 12-3-1997 issued by the fourth respondent in favour of the applicant.
6. Annexure R3(c) Statement dated 26-6-1996 submitted by the applicant before the 5th respondent.