

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No.

422

1992

DATE OF DECISION

17.7.92

M.V. Suresan _____ Applicant (s)

Mr. M.R. Rajendran Nair _____ Advocate for the Applicant (s)

Versus

The Sub Divisional Inspector of Postoffices, Kayamkulam and others _____ Respondent (s)

Mr. George Joseph, ACGSC _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

The grievance of the applicant is against the proposed termination of his service as EDMC, Puthuppally post office. Apprehending termination, he has filed this application for a declaration that he is entitled to be considered for regular appointment as EDMC, Puthuppally Postoffice. His further prayer is to consider him by giving due weightage for his past service and taking into account the fact that he belongs to Scheduled Caste community.

2. According to the applicant, he registered his name with the Employment Exchange on 17.6.85. On retirement of the regular incumbent of the post of EDMC, Puthuppally, the applicant was provisionally appointed as per Annexure-I order as EDMC from 19.8.91 to 31.8.91 on the sole responsibility of the SPM, Puthuppally. The applicant continued in the post even after August, 1991.

2. The respondents filed a statement and additional statement in this case. They have submitted that the regular incumbent of the post of EDMC, Puthuppally retired from service on 17.8.91 and the post of EDMC fell vacant from 18.8.91. The applicant was provisionally appointed as EDMC, Puthuppally for the following periods:

" 2.12.91 to 31.12.91
1.1.92 to 31.1.91
1.2.92 to 28.2.92
2.3.92 to 31.3.92 "

They further submitted that one Shri K.V. Harikumar, brother of late Sadhanandhan who is eligible to be appointed as EDDA, Karuvatta north is given compassionate appointment in the Puthuppally post office as EDMC. But the order of the Department could not be implemented because of the stay order from the Tribunal in O.A. 1967/91. They also submitted that the post of EDMC, Puthuppally is proposed to be filled in by appointing Shri K.V. Harikumar and hence, there is no proposal before the Department to conduct a regular selection.

3. We have heard arguments of learned counsel for both parties. The learned counsel for the applicant submitted that the application can be disposed of directing the respondents xxxxxxxxxxxx, that whenever regular selection is being conducted for filling up the post of EDMC, Puthuppally, his claim may be considered and if there is a termination, it should in accordance with law.

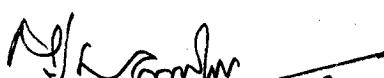
4. It is very clearly stated in the reply statement that the present post of EDMC, Puthuppally is proposed to be filled up by posting K.V. Harikumar on compassionate grounds on the basis of his request. It is also stated in the reply statement that the applicant was given provisional appointment for a limited period as indicated in the reply statement. Since the appointment is for a limited period, the question whether the applicant can be terminated on the basis of the appointment order is to be considered by the

respondents. However, the applicant has not established his right to continue in the post except the statement that he was provisionally appointed for a limited period as contended by the respondents. The respondents have not disputed the fact that the applicant was appointed provisionally. The question of retaining the applicant in the post does not arise in this case because the respondents have stated that the Department has already issued appointment order posting Shri Harikumar and Shri Harikumar could not join the post because of the stay order passed by the Tribunal in this case. The stay order is not in force now at present.

5. In this view of the matter, the application can be dismissed.

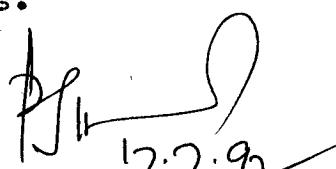
6. If at all at any time the department is proposing to conduct regular selection to the post of EDMC, Puthuppally Post Office, the name of the applicant deserves to be considered. With these observations, the application is dismissed.

7. There will be no order as to costs.


(N. Dharmadan)

Judicial Member

17.7.92


(P.S. Habeeb Mohamed)
Administrative Member

kmm