

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO.422/2002

Wednesday, this the 11th day of September, 2002.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN \*

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Alice Varghese,  
Extra Departmental Branch Postmaster,  
Kommady Branch Office,  
Alappuzha. - Applicant

By Advocate Mr PS Biju

Vs

1. Union of India represented by  
the Secretary,  
Ministry of Communications,  
New Delhi.
2. Superintendent of Post Offices,  
Alappuzha Division,  
Alappuzha.
3. Assistant Superintendent of Post Offices,  
Alappuzha Sub Division,  
Alappuzha.
4. B.Remadevi,  
EDSPM Purakadu,  
Alappuzha.
5. Ambily.V.,  
Kadavathusherri House,  
Pazhaveedu.P.O.  
Alappuzha-688 009. - Respondents

By Advocate Mr C Rajendran, SCGSC( for R.1 to 3)

By Advocate Mr K Indu(for R-5)

By Advocate Mr MR Sudheendran(for R-4)


The application having been heard on 11.9.2002 the Tribunal on  
the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN


The applicant, Ms.Alice Varghese, alleging that she had been regularly selected and appointed as Extra Departmental Branch Post Master(EDBPM for short), Alappuzha, by order dated 19.7.99 issued by the 3rd respondent(A-1), that the 2nd respondent orally informed that her services would be terminated and that on inquiry coming to know that the attempt was to terminate the services of the applicant on account of a challenge made to the appointment of the 4th respondent on the post previously, the applicant has filed this application praying that the termination of the applicant's services as EDBPM, Kommady may be stayed declaring that she is entitled to continue as EDBPM, Kommady pursuant to A-1 order and that the services of the applicant had to be terminated only in accordance with law after due notice to the applicant.

2. Respondents 1 to 3 in their reply statement contend that the applicant was appointed as EDBPM, Kommady only on a provisional basis, as regular appointment could not be made at that time making it clear in the order that the appointment would be provisional and subject to the outcome of O.A.1571/98, as one Ambily (who has since been impleaded as additional 5th respondent), had filed O.A.1571/98 for a direction to the respondents to consider her appointment alleging that turning down her candidature on the ground of her not possessing landed property was, arbitrary, discriminatory and unconstitutional, that the above O.A. was allowed by the Tribunal directing the respondents to consider



the appointment of Ambily, the applicant in that case, that the above order of the Tribunal has been upheld by the Hon'ble High Court of Kerala vide its judgement dated 6.12.2001 in O.P.No.1422 of 2000 and that as the respondents are bound to consider the appointment of the applicant in O.A.No.1571/98, it is necessary to terminate the provisional service of the applicant. The 5th respondent has filed a reply statement contending that the Tribunal having allowed her application O.A.No.1571/98 and having directed the respondents to consider her appointment, the applicant has no right to claim that her services cannot be terminated for appointing the regularly selected person. Along with M.A.686/2002 which was filed by the 5th respondent for having the interim order vacated, an order dated 28.5.2002 of the Superintendent of Post Offices, Alappuzha Post Offices directing the Assistant Superintendent of Post Offices, Alappuzha to admit the 5th respondent on the post of GDSPM, Kommady after getting the necessary pre-appointment formalities and training.

3. We have carefully gone through the entire pleadings placed on record and have heard the learned counsel on either side. We find that the applicant has been guilty of suppression of a material fact that her appointment as EDBPM, Kommady was provisional and subject to the outcome of O.A.No.1571/98. Annexure-A1 is not really the order of appointment of the applicant. It is an order directing that she be trained and put incharge. The order of appointment is really R-1 in which at Para 3, it is stated as follows:

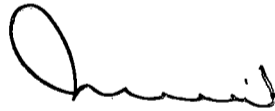


"The provisional appointment will also be subject to the outcome of O.A.No.1571/98 filed by Smt.V.Ambily before the Hon'ble CAT, Ernakulam Bench."

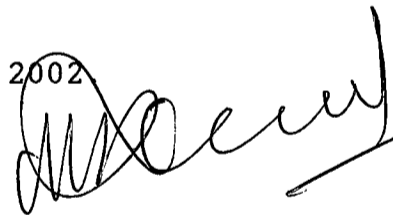
O.A.1571/98 was allowed by this Tribunal by order dated 30.9.1999(R-2) directing the official respondents to consider the applicant for appointment even if she did not possess landed property. This order has been upheld by the Hon'ble High Court of Kerala in O.P.No.1422/2002(R-3). The official respondents were therefore bound ,to consider the 5th respondent for selection. Therefore, the official respondents have no option but to terminate the provisional appointment of the applicant.

4. In the light of what is stated above, we do not find any merit in this application and therefore, we dismiss the application, leaving the parties to bear their respective costs.

Dated, the 11th September, 2002



T.N.T.NAYAR  
ADMINISTRATIVE MEMBER



A.V.HARIDASAN  
VICE CHAIRMAN

trs

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the appointment order of the applicant appointing her to the post of B.P.M Kommady by the 3rd respondent No.BO/KW Alappuzha IB dated 19.7.1999.
2. MA-1: True copy of the order No.BO/Kommady Ward dated 28.5.2002 issued by the 3rd respondent.
3. MA-2: True copy of the Judgement in O.A No.1571/98 dated 30.9.99 of this Hon'ble Tribunal.

Respondents' Annexures:

1. R-1: True copy of appointment order dated 4.8.99 issued by Superintendent of Post Offices, Alappuzha Division.
2. R-2: True copy of order of this Hon'ble Tribunal dated 30.9.99 in OA No.1571/99.
3. R-3: True copy of Judgement of Hon'ble High Court of Kerala dated 6.12.2001 in O.P.No.1422/2000.

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