

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 435 of 1995.

Thursday this the 3rd day of October 1996.

CORAM:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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

1. K.K. Samuel,
Higher Selection Grade-II,
Postal Assistant,
Savings Bank Control Organisation,
Head Post Office,
Adoor (Johnson Villa,
Mallassery P.O., Pathanamthitta.)

2. Achamma Samuel, W/o Samuel,
Lower Selection Grade Postal
Assistant, Mallassery P.O.,
(Johnson Villa, Malasseri P.O.,
Pathanamthitta.)

.. Applicants

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Director General of Posts,
New Delhi.

2. The Chief Post Master General,
Kerala Circle, Trivandrum.

3. The Senior Superintendent of
Post Offices,
Pathanamthitta Division,
Pathanamthitta.

4. Union of India represented by
Secretary to Government,
Ministry of Communications,
Department of Posts, New Delhi.

.. Respondents

(By Advocate Shri Mary Help John David J., ACGSC)

The application having been heard on 3rd October 1996,
the Tribunal on the same day delivered the following:

O R D E R

P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are Postal Assistants in the Postal
Department. They were initially appointed as Lower Division
Clerks at Mana Camp, Raipur. Thereafter, as surplus
personnel they were allotted to the Department of Posts.

The first applicant was granted promotion to the cadre of Lower Selection Grade (LSG for short) under the Time Bound One Promotion (TBOP for short) scheme, by A2 order dated 7.4.93 and a further promotion to the Higher Selection Grade (HSG for short) under the Biennial Cadre Review (BCR for short) Scheme by A3 order dated 18.11.93. The second applicant was promoted under TBOP scheme to the LSG by A6 order dated 20.5.94. Subsequently, on the basis of a decision mentioned in A1 impugned order the respondents held that services rendered by applicants in Mana Camp would not count for computing 16/26 years of service for TBOP/BCR. The promotion of first applicant ordered by A2 and A3 was cancelled by orders dated 25.4.95 (produced as A5 in O.A. 653/95). It is noticed that A5 is only a notice proposing to cancel the promotion and presumably a final order is yet awaited. As regards second applicant the promotion granted by A6 order has not been cancelled presumably on the basis that her promotion was as a result of the directions of the Tribunal in O.A. 1041/93 and O.A. 50/91.

2. Respondents have taken a stand that the service rendered by applicants prior to transfer to the Postal Department would not count while computing the required 16/26 years of service for promotion under TBOP/BCR schemes.

3. According to Annexure R3, the surplus employee will not be able to claim any weightage of seniority over the other members of the cadre in which he is redeployed. It is also stated in R3 that if the pay scale of the redeployed post is lower the individual is allowed the facility of carrying his previous pay scale as personal to him while working in such lower posts. The intention seems to be that the service rendered prior to redeployment would not

be completely lost but that seniority would be lost on redeployment. R4 states:

" The transfer of the surplus staff through the surplus Cell of the Ministry of Home Affairs is in public interest and as such, these officials will be entitled to all the benefits admissible to Government Servants transferred from one Government Department to another."

We find an analogy in Rule 38 transfers (set out in R2) where seniority is lost on transfer but the services rendered prior to the transfer would continue to count as qualifying service for promotion. R1 specifically provides that persons coming under Rule 38 transfer are eligible to count service in other offices/departments for TBOP. Support for this view can also be found in Renu Mullick (Smt.) Vs. Union of India and another, (1994) 26 ATC 602). This supports the contention that the services rendered in the same grade prior to redeployment of surplus staff should count as qualifying service for purposes of TBOP/BCR. The fact that first applicant was given these benefits by A2 and A3 orders shows that initially the department did consider that the services prior to redeployment would count for TBOP/BCR. It is not clear on what basis this was reversed since A1 merely mentions that a decision to do so was taken by the Director General of Posts. The question of how surplus staff are to be deployed and what protection is to be given to them is a matter to be decided by the Government of India. It is a policy decision applicable to redeployed staff posted in all departments and not only in the Department of Posts. It is not clear on what authority the scheme of redeployment of surplus staff

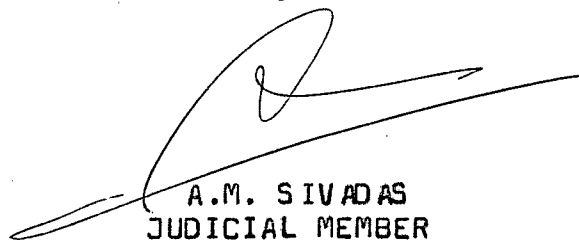
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issued by the Government is interpreted or varied by the Director General of Posts in respect of the employees belonging to that department. The pleadings before us are not adequate to deal with these questions. Under these circumstances, we consider it necessary that the Department of the Government of India in charge of the Central (Surplus Staff) Cell should clarify the position. First applicant may submit a representation in this regard to the Secretary in charge of the Central (Surplus Staff) Cell within one month and if such a representation is made the Secretary in the aforesaid department will consider it and pass appropriate orders within four months of its receipt. The Tribunal had, on 29.3.95, directed that the status quo in respect of the applicants will be maintained. The orders dated 25.4.95 by which first applicant's promotions were sought to be cancelled (produced as A5 in O.A. 653/95) will be kept in abeyance as far as the first applicant is concerned till the Secretary in charge of the Central (Surplus Staff) Cell passes orders in terms of the direction aforesaid.

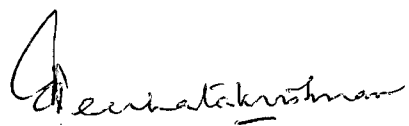
4. Learned Standing counsel submits that he will forward a copy of this order to the concerned Secretary to the Government of India for appropriate action.

5. Application is disposed of as aforesaid. No costs.

Thursday this the 3rd day of October 1996.



A.M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER