

केन्द्रीय प्रशासनिक अधिकरण . . . . . न्यायपीठ में  
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ERNAKULAM BENCH**

आदेश पत्र  
**ORDER SHEET**

आवेदन सं 19 का  
 ORIGINAL APPLICATION No. 46/1991

आवेदक  
 Applicant(s)

Binulal.8

प्रत्यर्थी  
 Respondent(s)

Sup. of pos Patha -  
 Room 101 Its 2 95

आवेदक (आवेदकों)  
 की ओर से अधिवक्ता  
 Advocate for  
 Applicant(s)

C. Unnikrishnan

प्रत्यर्थी (प्रत्यर्थियों)  
 की ओर से अधिवक्ता  
 Advocate for  
 Respondent(s)

रजिस्ट्री के टिप्पणी  
 Notes of the Registry

अधिकरण के आदेश  
 Orders of the Tribunal

प्रस्तुतीकरण की तारीख  
 Date of Presentation : 29.5.2001

29.5.01

पंजीकरण की तारीख  
 Date of Registration : 29.5.2001

विषय : EDBPM Termination  
 Subject :

तैनाती की तारीख  
 Date of posting : 29.5.2001

Today

Heard. Orders pronounced  
 in open court.

J. Reeneen Chandi

Tutor (अध.)

Adv (वक.)

29.5.01

5:

Final Orders issued.

30/5/01

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No. 461/2001

Tuesday this the 29th day of May, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Binulal S/o P.N. Sadashivan,  
EDBPM, Thingalkarikkam Branch PO  
residing at Siva Nilayam, Thingalkarikkam PO.

....Applicant

(By Advocate Mr.C.Unnikrishnan)

V.

1. The Superintendent of Post Offices,  
Pathanamthitta Division,  
Pathanamthitta.
2. The Chief Post Master General,  
Kerala Circle, Thiruvananthapuram.
3. Union of India represented by its  
Secretary to Government of India,  
Ministry of Communications,  
New Delhi.
4. B.Viswakumar, EDDA, Samnagar PO,  
Punalur.

....Respondents

(By Advocate Mr. George Joseph))

The application having been heard on 29.5.2001, the Tribunal  
on the same day delivered the following:

O R D E R

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

When the post of Extra Departmental Branch Post  
Master, Thingalkarikkam was about to fall vacant the first  
respondent notified the vacancy for making recruitment from  
open market. The 4th respondent in this case Mr.Viswakumar  
who was working as Extra Departmental Delivery Agent (EDDA  
for short) Samnagar Post Office applied for appointment by  
transfer to that post. Finding that his request for  
transfer was not being considered, he filed OA 1154/99 for a

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declaration that he was entitled to be appointed as Extra Departmental Branch Post Master, Thingalkarikkam by transfer. As the recruitment process was going on during the pendency of the Original Application, an interim order was issued in OA 1154/99 that any appointment made to the post would be subject to the outcome of the application and the appointee, if any should be so informed. The applicant in this case was selected and appointed provisionally and subject to the outcome of OA 1154/99 and OP pending before the High Court. Ultimately the OA 1154/99 was disposed of on official respondents' agreeing that the request of the applicant for transfer would be considered before resorting to recruitment from open market. Aggrieved by that, the applicant carried the matter before the High Court in OP.16945/2000. The OP along with many other similar cases was heard by the High Court and the High Court dismissed the Original Petitions. Thereafter a show cause notice was issued to the applicant on 29.3.01 stating that as Viswakumar has been selected and the OP filed by the applicant having been dismissed in order to appoint Shri Viswakumar the services of the applicant had to be terminated giving the applicant 15 days time to submit his representation, if any. Pursuant to the above notice, the applicant submitted a representation in which he stated that he may be given appointment as EDDA Samnagar where the 4th respondent was working. The applicant also filed OA 347/01 for a direction to the respondents to give him appointment as EDDA, Samnagar and not to terminate his services as

EDBPM, Thingalkarikkam till he is so appointed. The above Original Application was rejected by order dated 25.4.01 on the ground that the applicant had no locus standi to challenge the selection of the 4th respondent and that his representation for appointment as EDDA, Samnagar had nothing to do with the appointment of the 4th respondent. Thereafter, the 1st respondent issued the impugned order Annexure A.1 dated 17.4.01 stating that as the 4th respondent who has been selected ~~ought~~ to be appointed and the applicant has acquiesced to this position, the 4th respondent would be appointed and the services of the applicant would stand terminated on the 4th respondent taking charge. Thereafter, the applicant made another representation (A5) to the 1st respondent, in which he has stated that the selection of the 4th respondent is erroneous and irregular as he was working in a different recruitment unit and because the post of EDBPM carries higher allowance than that of EDDA. However, apprehending that the services of the applicant would be terminated on the basis of the impugned order the applicant has filed this application for setting aside Annexure A1 declaring that the 4th respondent is not entitled to be transferred to the post of EDBPM, Thingalkarikkam and for a direction to respondents 1 to 3 not to terminate the services of the applicant as EDBPM.

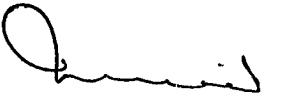
2. A careful scrutiny of the application and the annexures appended thereto clearly establishes that the applicant does not have a *prima facie* case at all. The right

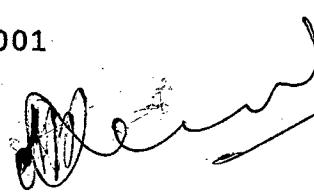
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of the 4th respondent for considering for appointment by transfer has been adjudged and found in favour not only by the Tribunal but also by the High Court dismissing the OP filed by the applicant in this case. In his reply to the show cause notice A2 dated 29.3.01 the applicant did not challenge the selection of the 4th respondent but only claimed an alternative appointment in the post of EDDA, Samnagar. His application OA 347/01 for allowing him to continue till he is appointed on the post of EDDA, Samnagar was rejected. Under these circumstances, we do not find anything in this case which calls for admission and further deliberation. The claim of the applicant that the selection of the 4th respondent who belongs to a different recruitment unit is bad in law is untenable. The 4th respondent was working as EDDA in the same division which is the recruitment unit for the post of EDSPM and EDBPM.

3. In the result, in the light of what is stated above, the application which is prima facie bereft of any valid cause of action is rejected under Section 19(3) of the Administrative Tribunals Act. No costs.

Dated the 29th day of May, 2001

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

(S)

OA 461/2001

List of annexures referred to:

Annexure.A1: True copy of te Memo No.B3/BO/158/II dated 17.4.2001 issued by the Ist respondent.

Annexure.A2:True copy of the proceedings No.B3/BO/158/II dated 29.3.2001 issued by the Ist respondent.

Annexure.A5:True copy of the representation dated 8.5.2001 submitted bythe petitioner before the Ist respondent.

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