

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 470 of 1998.

Friday this the 12th day of November, 1999.

CORAM:

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

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

N.P. Unnikrishnan,
Extra Departmental Delivery Agent,
Palayad P.O., Tellicherry. .. Applicant

(By Advocate Shri P.C. Sebastian)

Vs.

1. The Director General,
Department of Posts,
Dak Bhavan, New Delhi.
2. The Member (Personnel),
Department of Posts,
Dak Bhavan, New Delhi.
3. The Postmaster General,
Northern Region,
Kozhikode.
4. The Assistant Superintendent
of Post Offices, Tellicherry
Sub Division, Tellicherry. .. Respondents

(By Advocate Shri Thomas Mathew Nellimoottil)

The application having been heard on 12th November, 1999,

the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to quash A6, to declare that he is entitled to be considered for transfer and posting in (EDDA for short) the vacancy of Extra Departmental Delivery Agent, Palayad P.O. in preference to outsiders and is entitled to continue as EDDA Palayad on regular basis and to direct the 4th respondent to consider his request for regularisation of his posting as

EDDA, Palayad in preference to outsiders sponsored by the Employment Exchange.

2. The applicant is aggrieved by the refusal on the part of the 4th respondent to transfer him to the vacancy of EDDA Palayad P.O. on a regular basis. He was working as Extra Departmental Messenger (ED Messenger for short), Dharmadam Post Office with effect from 1.1.1980. He is at present working as EDDA Palayad P.O. He was transferred from Dharmadam to Palayad on the understanding that he will be allowed to continue at Palayad. The 4th respondent is now taking steps for filling up the vacancy by regular appointment to the post of EDDA Palayad from the candidates sponsored by the Employment Exchange and to replace the applicant.

3. Annexure A6 is illegal and ultravires of Articles 14, 16 and 21 of the Constitution of India.

4. The respondents contend that the applicant was temporarily transferred from Dharmadam to Palayad though transfer was not permissible under the existing rules on the subject, temporary transfer was made as the only practical solution to be made to meet that grave situation. Although the selection process to fill up the post of EDDA, Palayad was completed, the selection could not be finalised. ~~The applicant had submitted~~ Applicant had submitted A-2 representation to the 4th respondent in the wake of regular selection process to fill up the post. The applicant is not entitled to be considered for appointment as EDDA, Palayad by transfer.

5. The first prayer is to quash A6. A-6 is the order of Director General of Posts No.19-72/96 ED & TRG dated 14.2.1997. A6 order has already been quashed by this Bench of the Tribunal in O.A. 45/98. That being the position, it is not necessary to quash it again.

6. The stand taken by the respondents that the applicant cannot be transferred and posted at Palayad is based on A6. The learned counsel appearing for the respondents submitted that based on A-5 also the applicant cannot be transferred. In A-5 it is clarified how transfer requests of ED Agents are to be considered. If A-6 stood in the way of the respondents in considering the request of the applicant for transfer to Palayad that difficulty is no longer there. A5 do not prohibit the respondents from considering the request of the applicant. There is no valid ground raised by the respondents for non-consideration of the request of the applicant for transfer to Palayad.

7. It is the admitted case that the A-2 representation submitted by the applicant has not been considered and disposed of by the 4th respondent.

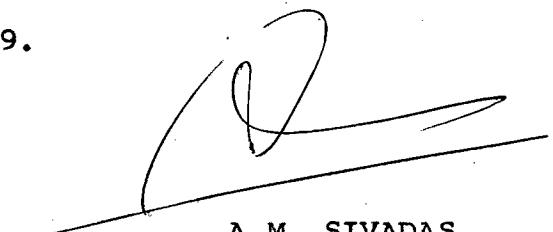
8. Accordingly, the 4th respondent is directed to consider and pass appropriate orders in accordance with the rules in force on A2 representation within a period of four months from today. The applicant shall be retained at Palayad till the disposal of A-2 representation.

9. O.A. is disposed of as above. No costs.

Dated the 12th November, 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in the order.

Annexure A6: True photo copy of Order No. 19-72/96-ED & TRG dated 14.2.97.

Annexure A5: True copy of letter No. 17-60/95-ED & TRG., dated 28.8.96 issued by first respondent.

Annexure A2: True copy of representation dated 23.3.98 submitted by Applicant to the 4th respondent.