

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

X O. A. No. 492 of 1990 ~~XXX~~ ~~XXX~~

DATE OF DECISION 4-1-1991

C. Saril Kumar Applicant (s)

Mr. Karthikeya panicker Advocate for the Applicant (s)

Versus

UOI rep, by the Director General, P&T, New Delhi and others Respondent (s)

Mr. TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

N.V. Krishnan, Administrative Member

The applicant was working as Extra Departmental Mail Man in the office of the Head Record Officer, Cochin, when the disciplinary proceedings were initiated against him which culminated in the impugned order Annexure A-4 dated 31-5-1990 of the Head Record Officer i.e. the second respondent, by which the applicant was removed from service with immediate effect.

2. Instead of filing an appeal before the Senior Superintendent of Post Offices who is the appellate authority, the applicant filed this Original Application on 19-6-90.

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3. The application was admitted and the third respondent has filed a reply statement denying any relief to the applicant in this case.

4. When the case came for final hearing today, we wanted to know as to why an appeal had not been filed. The only plea taken by the learned counsel for the applicant is that this point was already mentioned in para 4.3 of the application in which it is stated 'since the applicant is already removed from service, an appeal contemplated under Rule 10 of the Rule is not an effective remedy'. The learned counsel therefore states that on this plea the application was admitted.

5. The proceedings on 21-6-1990 on which date the case was admitted does not make any mention as to whether this aspect was considered at all. Further, on the face of it one would have found it difficult to accept the contentions of the learned counsel that the appeal under Rule 10 is not an effective alternative remedy because the applicant is removed from service, for, the E.D. Agents Conduct and Service Rules provide only for two punishments namely removal and dismissal and an appeal against ~~some~~ punishment.

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6. In this view of the matter, we are of the view that the applicant ought to have approached the appellate authority in the first instance. The counsel for the applicant however submits that the appellate authority has already filed a counter affidavit denying any relief to him. We are of the view that this aspect of the matter can be taken care of in our directions.

7. Accordingly, we dispose of this application with a direction that if the applicant files an appeal within fifteen days from the date of receipt of this order before the third respondent, the latter shall admit the appeal without going into the question of limitation.

8. On receipt of that appeal the third respondent shall forward it to the Director of Post Offices, Ernakulam along with a copy of this order so that he may entrust this appeal for disposal according to law, to any ~~other~~ Senior Superintendent of Post Offices, other than Shr P.K. Velayudhan, Sr. Superintendent, RMS, Ernakulam Division who has sworn the reply affidavit in the present case.

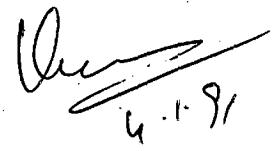
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9. The Original Application is disposed of with the above directions. There will be no order as to costs.


N. Dharmadan

(N. DHARMADAN) 4.1.91
Judicial Member


N.V. Krishnan
4.1.91

(N.V. KRISHNAN)
Administrative Member

4-1-91