

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
~~XXXXXXXX~~

5/91

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DATE OF DECISION 10.3.1992

Shri N.R. Prasannarajan Applicant (s)

M/s P. Santhalingam, K. Usha  
and N.S. Aravindakshan Advocate for the Applicant (s)

Versus

Sub Divisional Inspector of Respondent (s)  
Post Offices & others.

Shri V. Krishnakumar, ACGSC  
Shri D.V. Radhakrishnan (for R5) Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. **S.P. Mukerji** - Vice Chairman

The Hon'ble Mr. **A.V. Haridasan** - 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

(Hon'ble Shri A.V. Haridasan, Judicial Member)

In this application, the applicant has challenged the office order posting him as ED Mail Carrier from the post of ED Messenger and the appointment of the 5th respondent as EDDA, Chendrapinni and has prayed that it may be declared that he is entitled to continue in the post of ED Messenger. The applicant was first provisionally appointed as ED Messenger, Chendrapinni for a period of 89 days from 1.7.89 to 27.9.89 vide order of the Sub Divisional Inspector (Postal), Kodungallur Sub Division dated 30.6.89.

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Subsequently, in the regular vacancy which arose by appointment of Shri K.K. Rajan, ED Messenger, Chendrapinni, to the post of ED Delivery Agent, Chendrapinni, the applicant's appointment as E.D. Messenger, Chendrapinni, was regularised with effect from 1.7.89, the initial date of <sup>his</sup> appointment, by order dated 18.8.89 of the SDI, Kodungallur (Annexure AV). Subsequently, by recording in the order book of the Post Master, Chendrapinni Sub Office on 24.12.90 in obedience to telegram of the Superintendent of Post Offices, Ernakulam, dated 21.12.90, Shri M.S. Babu Rajendran, the 5th respondent being permitted to join as EDDA, Chendrapinni, Shri K.K. Rajan was reverted to the post of E.D. Messenger and as a consequence, the applicant was posted as ED Mail Carrier, Chendrapinni Branch Office. As the basic allowance for ED Mail Carrier is less than that of ED Messenger, the applicant submitted a representation to the Post Master General, Central Region, Cochin, the respondent No.2, complaining against his reversion to the post of ED Mail Carrier. According to the applicant, as the 5th respondent has no better claim than Shri Rajan for being appointed as EDDA, Chendrapinni and as the 5th respondent has no right for appointment as EDDA, Chendrapinni which actually arose in another delivery area, the appointment of the 5th respondent as EDDA, Chendrapinni, the reversion of Shri K.K. Rajan as ED Messenger and the consequential reversion of the applicant to the post of ED Mail Carrier, Chendrapinni are illegal and unjustified. As the reversion of the applicant from the post of ED Messenger to that of ED Mail Carrier has caused not only a reduction in

emoluments but also a diminution in the chances for promotion, the rights of the applicant had been prejudicially affected by the impugned action. The applicant alleges that the action of the Department in reverting him from the post of ED Messenger to that of ED Mail Carrier causing him a loss in emoluments without even issuing a written order is opposed to the elementary principles of law and justice. As his representation at Annexure A-VI has not been responded to by the 4th respondent, the applicant has filed this application under Section 19 of the Administrative Tribunals Act praying for a declaration that he may be allowed to continue as E.D. Messenger and for setting aside the appointment of the 5th respondent as EDDA, Chendrapinni.

2. The respondents in their reply statement have admitted that there is a decrease in the basic allowance payable to the applicant from Rs.290/- to Rs.282.50 consequent upon his posting as ED Mail Carrier from the post of ED Messenger. But they contend that the change cannot be said to be amounting to a reduction in rank as there is no difference in ranking between the post of ED Messenger and ED Mail Carrier and that there is no diminution in his chances for promotion as ED Agents as a class are eligible to be considered for promotion to the cadre of Post Man/Group D subject to the prescribed conditions. It is stated that as the remuneration to the post of ED Mail Carrier also depends on the quantum of work, it cannot be said that the post of ED Mail Carrier is less remunerative than that of ED Messenger though there

is slight difference in the basic allowance. The circumstances under which Shri K.K. Rajan was reverted as E.D. Messenger and the applicant was posted as E.D. Mail Carrier are explained by the respondents as follows. The post of ED Delivery Agent, Chendrapinni fell vacant with effect from 13.3.1989 on the promotion of the incumbent in that post as Group 'D' official. Shri K.K. Rajan, E.D. Messenger, Chendrapinni and the 5th respondent had applied for that post. The first respondent appointed Shri K.K. Rajan, E.D. Messenger, Chendrapinni, in the post of E.D. Delivery Agent with effect from 26.4.89. Since the post of ED Messenger, Chendrapinni, was vacated by Shri K.K. Rajan, the applicant was appointed in that post with effect from 1.7.89. The decision of the first respondent to appoint Shri K.K. Rajan as EDDA overlooking the claim of the 5th respondent was taken up by the Union with the Superintendent of Post Offices. The second respondent vide letter dated 29.11.90 issued orders to revert Shri Rajan as ED Messenger and to appoint the 5th respondent as EDDA Chendrapinni and to transfer the applicant as ED Mail Carrier, Chendrapinni East in the interest of service. In obedience with the above direction, the first respondent issued orders transferring Shri K.K. Rajan, ED Messenger, Chendrapinni, the 5th respondent as EDDA, Chendrapinni and the applicant as ED Mail Carrier, Chendrapinni East. These orders were given effect to from 4.12.90. On receipt of representations from the affected parties, the third respondent, Director of Post Offices, Cochin Region, issued directions to the second.

respondent to keep the above orders in abeyance. The second respondent thereupon ordered the status quo ante to be restored. Again, the second respondent issued a telegraphic message on 21.12.90 directing that the 5th respondent should be admitted to duty as EDDA, Chendrapinni. It was thus that the 5th respondent was appointed as EDDA on 24.12.90 and the applicant was made to assume duty as EDMC while Shri Rajan was put on duty as ED Messenger. It is, however contended that since as per interim order passed by the Tribunal in O.A.1175/90 filed by the 5th respondent, the applicant has again been posted as ED Messenger with effect from 23.1.91 that and/as there is no proposal to revert the applicant as ED MC unless this Tribunal directs the appointment of the 5th respondent as EDDA replacing Shri Rajan, the applicant has no legitimate grievance. It has also been contended that the case of the applicant that the 5th respondent has no right to get appointed as EDDA, Chendrapinni, in a vacancy in another delivery area, is not correct and sustainable because the 5th respondent is also eligible for the post as the headquarters of both the applicant and the 5th respondent is one and the same.

3. We have heard the arguments of the counsel on either side and have also carefully gone through the pleadings and documents. The applicant was appointed as ED Messenger with effect from 1.7.89 only in the vacancy which arose by transfer of Shri K.K. Rajan from that post to the post of

EDDA, Chendrapinni. By final order passed in O.A.1175/90 filed by the 5th respondent, this Tribunal has quashed the appointment of Shri K.K. Rajan as EDDA, Chendrapinni and directed the Department to allow the 5th respondent to resume the post of EDDA, Chendrapinni. It was also directed that Shri K.K. Rajan, the 5th respondent in O.A.1175/90 should be posted as ED Messenger, Chendrapinni which he was holding prior to his appointment as EDDA. With the quashing of the appointment of Shri K.K. Rajan as EDDA, Chendrapinni and the direction to appoint him in the post of ED Messenger which post he was holding prior to his appointment as EDDA, Shri Rajan has to be accommodated in the post to which the applicant was appointed. So, the applicant ~~cannot~~ be allowed to continue in the post of ED Messenger because Shri K.K. Rajan had to be accommodated in that post. In order to avoid retrenchment of the applicant, he has been accommodated in the post of EDMC. Even if there may be a change in the remuneration and the nature of work, we are of the view that as it became unavoidable in view of the final order passed in O.A.1175/90, the applicant has no legitimate grievance to be redressed. The post of ED Messenger to which the applicant was initially appointed fell vacant only on the appointment of Shri K.K. Rajan as EDDA. On the appointment of Shri Rajan as EDDA, Chendrapinni being cancelled, Shri Rajan naturally will have to go to a post of ED Messenger and, therefore, the applicant has no right to continue in that post. The contention of the applicant that the 5th respondent has no right to be

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appointed as EDDA, Chendrappinni, is baseless in view of the fact that the 5th respondent was working as an EDDA in Chendrappinni town even prior to his appointment as EDDA, Chendrappinni. Therefore, on a careful analysis of the facts and circumstances, we do not find any merit in this application.

4. In the result, the application is dismissed without any order as to costs.

  
( A.V. HARIDASAN )  
JUDICIAL MEMBER

  
( S.P. MUKERJI )  
VICE CHAIRMAN

10.3.1992

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