

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.499/98

Tuesday the 31st day of March 1998.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR S.K. GHOSAL, ADMINISTRATIVE MEMBER

J. Janaky
Postmaster
Kayamkulam Head Post Office
Kayamkulam

...Applicant

(By advocate Ms K. Indu)

Versus

1. The Chief Postmaster General
Kerala Circle
Thiruvananthapuram
2. The Postmaster General
Central Region
Ernakulam
3. The Director of Postal Services
Central Region
O/o The Postmaster General
Ernakulam.
4. The Supdt. of Post Offices
Mavelikkara Division.

...Respondents.

(By advocate Mr Varghese P. Thomas)

The application having been heard on 31.3.98, the Tribunal on the same day delivered the following:

O R D E R

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

Applicant while working as Higher Selection Grade-II Postmaster at Kayamkulam was transferred to Irinjalakuda as Deputy Postmaster. The applicant challenged this before the Tribunal (C.A.T.) in OA No.798/97 which was rejected under Section 19 (3) of the Administrative Tribunals Act, 1985. Aggrieved by that, the applicant approached the High Court of Kerala in OP No.10658/97. The High Court by order dated 12.9.97 disposed of the OP, taking note of the submissions made by the standing counsel for the petitioner that ^{if} the petitioner was prepared to work in the next lower post, she could be accommodated

in a nearby place and her present pay would be protected. The petitioner agreed to this suggestion and in the facts and circumstances of the case, the High Court disposed of the O.P. with the following observations and directions:

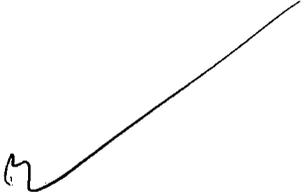
"Having regard to the facts and special circumstances of the case and taking into consideration that the petitioner has got only a few more months to retire from service, we direct that she may be accommodated in any of the nearby places in the next lower post. Her present pay shall be protected. If the petitioner is entitled to be considered for any promotion to the next higher cadre i.e. higher post from Selection Grade-II (norm based) Postmaster, she may be considered by the DPC if she is otherwise eligible. OP is disposed of as above. "

2. Not being satisfied with this order, the petitioner moved the High Court again in R.P.No.386/97 which was disposed of by order dated 4.11.97. It is worthwhile to quote the entire order of the High Court in R.P.No. 386/97.

"Order: Petitioner seeks to review the judgement dated 12.9.97. Petitioner was working as Head postmaster and she was transferred as branch postmaster. Petitioner contended that the posting was not to a convenient station and she challenged the same. Respondents submitted that the petitioner cannot be given a posting near to her native village as there was no post available to accommodate her. In the judgement we had indicated that she may be given a posting near her home-town and if equivalent post is available, she may be posted in any post without prejudice to her right to get further promotion.

2: Now, the petitioner submits that she has filed a representation before the first respondent wherein she apprehended that she will not be given further promotion if joined in the lower post. We have already stated in our judgement dated 12.9.97 that even if the petitioner is posted to a lower post her future promotion shall not be adversely affected.

3. Having regard to the facts and circumstances of the case, first respondent shall consider and dispose of the representation allegedly filed by the petitioner before the first respondent within a reasonable time, at least within a period of two months of the date of receipt of a copy of this order. RP is disposed of as above."



3. On the basis of this order, the first respondent (Annexure-A8) issued an order dated 16.1.98 rejecting the claim of the applicant for retention in the place of her earlier posting or posting at a nearby place like Karunagappally or Mavelikkara, and directing the 4th respondent to give the applicant a posting forthwith as Sub Postmaster of a Post Office nearby Kayamkulam where posting of a HSG-II (BCR) official is justified. In obedience to the above order, the 4th respondent had issued an order dated 6.2.98 (Annexure A-9) posting the applicant as Sub Postmaster (BCR), Kareelakulangara P.O. It is aggrieved by these orders at Annexure A-8 & A-9 that the applicant has filed this application to have the impugned order at Annexure A-8 & Annexure A-9 quashed and for a direction to the respondents to accommodate the applicant in any of the equivalent posts available in the nearby places or to retain her at Kayamkulam Head Post Office and to direct the 1st respondent to consider her representation (Annexure A-10) in the light of the directions of the Hon'ble High Court at Annexure A-7. It is alleged in the application that while passing the impugned order, the first respondent had violated the directions contained in the order of the High Court. The applicant has stated that the direction was to give the applicant an equivalent post. This having not been done, the impugned order at Annexure A-8 is liable to be set aside. The posting of the applicant in a post which would normally be held by a BCR official, according to the applicant, is totally unjustified and it is on the basis of the above averment that the applicant has claimed the reliefs.

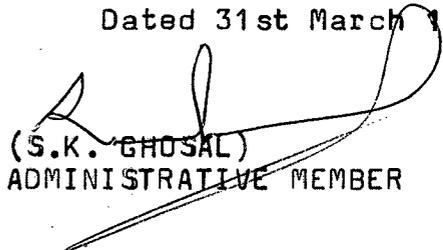
4. We have given our serious consideration to the allegations made in the application and have, with meticulous care, gone through the annexures including the order of the High Court in the writ petition and also the original application. Learned counsel for the applicant has stated that the order passed by the High Court in the O.P. initially on 12.9.97 had been reviewed by the order dated 4.11.97 directing the respondents to give the applicant a posting on an equivalent post and that the impugned orders not being in conformity with the directions contained in the order of the High Court are liable to be set aside. If the directions contained in the order of the High Court have not been complied with, but a defiance has been shown by violating the directions by any one of the respondents, the course open for the applicant is to move the Hon'ble High Court, for taking action against the offending respondent under the provisions of law. However, on a careful scrutiny of the order of the High Court dated 12.9.97 in the O.P. as also the order dated 4.11.97 in R.P.386/97, we do not find that there has been any violation of the directions contained in the order of the High Court.

5. Inviting our attention to the last line in para 2 of the Annexure A-7, an attempt has been made by the learned counsel for the applicant to make out that the direction contained in the order was to give the applicant a posting ~~of~~ on an equivalent post. We notice that this desperate attempt made by the learned counsel has miserably failed because in the order itself, the High Court has made it clear as to what they have intended in the order in O.P.

In para 2 of the order at Annexure A-7 regarding the chances for contention of the applicant that her promotion would be jeopardised if ^{she} joined in the lower post, the Court observed that it had already stated in its order dated 12.9.97 that 'even if the petitioner is posted to a lower post, her future promotion shall not be adversely affected.' This clearly shows that there was no specific direction that the petitioner would be posted on an equivalent post. In other words, on the basis of the statement made by the counsel appearing for the respondents that if the petitioner was prepared to accept a lower post, she would be accommodated near Kayamkulam, the Court had directed that she would be accommodated in any of the nearby places in the next lower post. By impugned order at Annexure A-9 the petitioner was posted in a place near her present place of posting without any loss of emoluments. In Annexure A-8 order the first respondent had, in response to her representation and as directed by the High Court, stated that because of her supervisory laxity, it was felt that it was in public interest to shift her.

6. In the light of what is stated above, since we do not find anything in this application which needs judicial intervention, the application is dismissed.

Dated 31st March 1998.


(S.K. GHOSAL)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

aa.

LIST OF ANNEXURES

1. Annexure A-7 : Order dt.4-11-97 in RP 386/97 in OP 10658/97 before the Hon'ble High Court of Kerala at Ernakulam.
2. Annexure A-8 : Order No. ST/42-22/93 dated 16-1-98 issued by the 1st respondent.
3. Annexure A-9 : Order No.BB/26 dated 6-2-98 issued by the 4th respondent.
4. Annexure A-10 : Representation dated 5-2-98 submitted by the applicant to the 1st respondent.

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