

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM.

DATE OF DECISION

9th January, 1990.

PRESENT

Hon'ble Shri S.P. Mukerji, Vice Chairman  
&  
Hon'ble Shri A.V. Haridasan, Judicial Member

ORIGINAL APPLICATION NO.503/89

C.V. Bhaskaran .. Applicant

Vs.

1. The Sub Divisional Inspector(Postal),  
Perumbavoor Sub Division,  
Perumbavoor.
2. T.R. Sasi, Thuruthel House,  
Chathamattam.
3. Union of India represented by  
Secretary, Ministry of Communication,  
Department of Posts, New Delhi. .. Respondents

Counsel for the applicant .. Mr. M.R. Rajendran Nair.  
and Miss. Asha

Counsel for the respondents .. Mr. K. Narayana Kurup,  
ACGSC for R.1 & 3.  
Mr. A.K. Avirah for R.2

O R D E R

Shri A.V. Haridasan, Judicial Member.

In this application filed under section 19 of the Admve. Tribunals Act, the applicant prays that it may be declared that the applicant's services shall not be terminated except in accordance with the provisions contained in Chapter V-A of the Industrial Disputes Act and that he may be granted such other reliefs as found fit. The facts of the case as disclosed in the application is narrated as follows.

.2.

2. The applicant had been working as Extra Departmental Delivery Agent, Chathamattam intermittently from 26.5.84 and continuously from 1.6.86. He was paid a monthly allowance of Rs.291/-. Coming to know that the first respondent was taking steps to fill the vacancy on a regular basis interviewing the candidates sponsored by the Employment Exchange, <sup>without</sup> considering him for the post, the applicant filed O.A. K. 97/87 before this Tribunal challenging the proposed termination of his services. As per an interim order passed in that application the applicant was also considered for regular appointment. In terms of the interim order in O.A.K.97/87 the result was not announced but since the final order passed in O.A.K.97/87 directed announcement of the result, the first respondent published the result selecting the second respondent as Extra Departmental Delivery Agent, Chathamattam. As a result of this selection the applicant's services which has been continues ever since 1.6.86 will have to be terminated. But the proposed termination without complying with the provisions of Chapter V-A of the Industrial Disputes Act <sup>will be</sup> / illegal and unsustainable. Hence the applicant has filed this application.

3. On behalf of Respondents 1 and 3 namely the Sub Divisional Inspector (Postal), Perumbavoor and Union of India, the first respondent has filed a detailed counter affidavit. The second respondent who is the person selected for appointment as Extra Departmental Delivery Agent, Chathamattam also has filed a counter affidavit opposing

...3

.3.

the grant of relief claimed in the application.

4. We have heard the learned counsel on either side and have gone through the documents placed before us. That the applicant has been working intermittently as an Extra Departmental Delivery Agent from 26.5.84 and continuously from 1.6.86 onwards are facts borne out from records and not seriously disputed. It is by now settled that the Postal Department is an industry and that the provisions of Industrial Disputes Act are applicable to the provisional Extra Departmental Delivery Agents. As the applicant has been working for about three years as provisional Extra Departmental Delivery Agent he is entitled to the benefits of the Industrial Disputes Act and his services cannot be terminated otherwise than as provided for in Chapter V-A of the Industrial Disputes Act. Anyway the applicant cannot claim that he should be regularly appointed as Extra Departmental Delivery Agent, Chathamattam since the second respondent has been validly selected and since his selection has not been challenged as illegal. What the applicant can claim is the benefits available under Chapter V-A of the Industrial Disputes Act. That is he will be entitled <sup>in accordance with law</sup> to reappointment as Extra Departmental Delivery Agent in the vacancies which arise in the Division in preference to other persons. He will also be entitled to the retrenchment compensation, notice pay etc. The learned counsel for the applicant submitted that the applicant is prepared to work anywhere in the Division

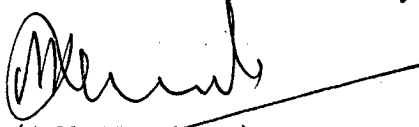
....4

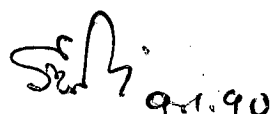
✓

.4.

as an Extra Departmental Delivery Agent and that a vacancy of Extra Departmental Delivery Agent is likely to arise very shortly at Pareekanny and that the respondents may be directed to accommodate him in that vacancy or any other vacancy which arises in the Division. The learned counsel for the respondents have no objection in granting this relief to the applicant.

5. In view of the circumstances of the case and the submissions made by the learned counsel at the Bar, we allow this application with the direction to the respondents to accommodate the applicant in the post of Extra Departmental Delivery Agent at Pareekanny or in any other place in the Division, which is likely to arise shortly and if no such vacancy arises to terminate his services <sup>after</sup> only /complying with the provisions of Chapter V-A of the Industrial Disputes Act. We do not make any order as to costs.

  
(A.V. Haridasan)  
Judicial Member

  
(S.P. Mukerji)  
Vice Chairman

09.01.1990

Sn.