

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 510 199 2
T. A. No.

DATE OF DECISION 26.5.92

K. N. Damodaran Nair and 3 others Applicant (s)

Mr. O. V. Radhakrishnan

Advocate for the Applicant (s)

Versus

Chief Postmaster General,
Kerala Circle, Trivandrum and others Respondent (s)

Mr. N. N. Sugunapalan, SCGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S. P. Mukerji, Vice Chairman

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

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

JUDGEMENT

Mr. S. P. Mukerji, Vice Chairman

This is the second time that four applicants have moved this Tribunal by their application dated 29.3.92 against their transfer on promotion as Supdt. of Post Offices in Maharashtra Circle. Earlier, they had approached this Tribunal in O.A. 442/92 which was disposed of by the judgment dated 16.3.92 to which one of us was a party. A copy of this judgment has been appended at Annexure A-6. The operative portion of this judgment is quoted below:

"We have heard the learned counsel for both the parties and gone through the documents carefully. We see considerable merit in the application and admit the same. We, however, refrain from

intervening at this stage as we feel that the merits of the case as such can as well be appreciated by the second respondent keeping in view the fact that the vacancies are available in the Kerala Circle, that it will be more economical to retain the applicants in Kerala Circle and also that at least the first three applicants have less than three years to retire. We, therefore dispose of this application with a direction to respondent No. 2 (Director General, Posts, New Delhi) to dispose of the representations of the applicants as has been stated to have been forwarded with the recommendations of the Chief Post Master General, Kerala Circle, within a period of one month from the date of communication of this judgment keeping in view the observations made above. The applicants shall be allowed to remain at their existing posts and stations till the communication of the orders of the second respondent on their representations and 15 days thereafter." (emphasis added)

2. It appears that before this judgment could be delivered to the respondents, the respondent No. 2 passed the impugned order dated 17.3.92, a copy of which is at Annexure A-7. This order was communicated to the applicant vide the impugned order dated 20.3.92 at Annexure A-7.

3. We have heard arguments of the learned counsel for both parties and gone through the documents carefully. The learned counsel for the respondents accepts the fact that the rejection of the representation of the applicants vide the communication dated 17.3.92 was directed before respondent No. 2 could lay his hands on the copy of the judgment of this Tribunal dated 16.3.92. In that judgment, a specific direction was given that the representation of the applicants should be disposed of by Respondent No. 2 keeping in view the observations made in that judgment. Since the impugned order rejecting the representation at Annexure A-7 was passed in ignorance of our order dated 16.3.92 and there is no indication at Annexure A-7 that the considerations which weighed with the Tribunal have in any manner been taken into

account by the Respondent No. 2 by application of his mind, we are inclined to think that the impugned order at Annexure A-7 has totally frustrated the letter and spirit of the order of this Tribunal dated 16.3.92. Accordingly, the impugned order at Annexure A-7 cannot be sustained in view of the order of the Tribunal dated 16.3.92.

4. The learned counsel for the respondents argued that the applicants had to be transferred to ^{the} Maharashtra Circle ^{panchayat} because the ^{number} of approved officials in that Circle is much acute than in ^{the} Kerala Circle. Be that as it may, that ground cannot justify the impugned orders in the light of the judgment of the Tribunal dated 16.3.92.

5. The learned counsel for the applicants further brought to our notice that the ^{impugned} order of transfer to ^{their} Maharashtra Circle is in violation of the policy statement of the Ministry of Communication dated 20.2.92 at Annexure A-4 and of ^{the} DGP&T communication dated 12.11.81 at Annexure A-8.

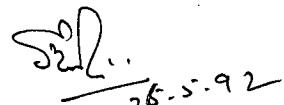
6. In the conspectus of facts and circumstances, we allow the application, set aside the impugned order at Annexure A-1 so far as the applicants are concerned and the order at Annexure A-7 and direct the Respondent No. 2 to dispose of the representation of the applicants keeping in view the observations made by this Tribunal in the judgment dated 16.3.92 in O.A. 442/92, a copy of which is at Annexure A-6 as also the policy statements at Annexure A-4 and A-8 referred to above. The applicants should be retained in

the Kerala Circle till the representations are disposed of and the speaking orders thereon are communicated to them.

7. There will be no order as to costs.


26.5.92

(N. DHARMADAN)
JUDICIAL MEMBER


26.5.92

(S. P. MUKERJI)
VICE CHAIRMAN

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