

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 510/93 ~~199~~

DATE OF DECISION 11-6-93

K.G.Jaimon Applicant (s)

Mr.M.R.Rajendran Nair Advocate for the Applicant (s)

Versus

Sub-Divisional Inspector Respondent (s)  
(Postal), Palai & another.

Mr.Mohammed Navaz, ACGSC(R.1&2) Advocate for the Respondent (s)  
Mr.P.R.Padmanabhan Nair (R.3)

CORAM :

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

The Hon'ble Mr. R.Rangarajan, Administrative Member

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

## JUDGEMENT

### MR. N.DHARMADAN, JUDICIAL MEMBER

Applicant while working as ED Branch Post Master at Kaippally Post Office apprehending termination of service consequent on the proposed reinstatement of the original incumbent, filed this application under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

- i) Declare that the services of applicant are not liable to be terminated except in accordance with the provisions contained in Chapter V-A of I.D.Act.
- ii) Direct the respondents to allow the applicant to continue in service as EDBPM at Kaippally PO or in the alternative direct the respondents to accommodate the applicant as EDBPM at Poovakode PO or in any other existing vacancy.

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iii) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant, and

iv) Grant the cost of this Original Application. "

2. On 22.3.93, after admitting the application, we passed the following interim relief:-

"As regards interim relief, we direct that till the mandatory provisions of Chapter V-A of the Industrial Disputes Act are fully complied with, the applicant's services shall not be terminated. This order is provisional and subject to the outcome of this application."

3. Applicant filed M.P.584/93 for a direction to put the applicant back to duty as EDBPM, Kaippally PO pending disposal of the O.A. on the ground that the interim order passed on 22.3.93 has not been properly implemented - and the applicant has been ousted from service. After hearing <sup>learned</sup> the /counsel on both sides, we passed a modified interim order on 25.3.93 directing the respondents to maintain status-quo as on 22.3.93 as regard to the applicant's posting.

4. Admittedly, the applicant was appointed provisionally on the basis of Annexure-I order dated 13.2.91 when Shri T.D.Thomas, who was the original incumbent, was placed under put-off duty pending finalisation of disciplinary proceedings initiated against him. The Senior Superintendent of Post Offices, Kottayam by proceedings F3/1991 Kottayam dated 29.4.1992 removed the regular incumbent of the post from service. He filed an appeal before the Director of Postal Services, Cochin on 10.6.1992. Since the appellate authority did not dispose of the appeal he filed OA 172/93 which was disposed of at the admission stage with direction to the appellate authority to consider the appeal and dispose of the same within a period of two months from the date of communication of the order. It was passed on 1.2.93.

Accordingly, the appellate authority by order dated 10.3.1993 set aside the removal order and allowed the appeal with a lesser punishment of debarring him from promotion for a period of three years from the date of his reinstatement as EDBPM, Kaippally. In implementation of the said appellate order when the regular incumbent was proposed to be appointed as EDBPM, Kaippally Post Office, the applicant has filed this OA and obtained interim order.

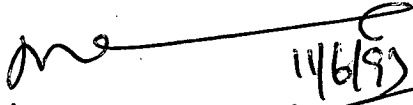
5. The original incumbent, Shri T.D.Thomas filed M.P. Dy.No.4928/93 on 28.5.93 for impleading himself as additional respondent in this case. When the application came up for orders we heard the learned counsel appearing for the parties for an early disposal of the O.A.


6. Having heard the learned counsel appearing in this case, we are satisfied that the second prayer in the application alone needs consideration for on the basis of appellate order dated 18.3.93 the original incumbent was reinstated in service and he assumed duty as EDBPM, Kaippally PO on 23.3.93. Later, in view of the interim order passed by this Tribunal on 22.3.93 and 25.3.93 the regular incumbent on the post was relieved on 29.3.93. Hence he has filed an application for impleading stating that he has vital interest in this application and he must also be heard. The M.P. was allowed and we have permitted the learned counsel Shri Padmanabhan Nair to present his case and we have heard him also.

7. The applicant, while he was given provisional appointment, it was informed to him that the regular incumbent of the post has been placed on put-off duty pending finalisation of the disciplinary proceedings

initiated against him and in the order of provisional appointment it is clarified that the appointment is "tenable till the disciplinary proceedings against Shri T.D.Thomas is finally disposed of and he has exhausted all channels of departmental/judicial appeals and petitions etc., and in case it is finally decided not to take Shri T.D.Thomas back into service, till a regular appointment is made". Now, since the regular incumbet came back after completion of the disciplinary proceedings the applicant has no right to be reinstated in the post and the applicant cannot resist the same.

8. The learned counsel for the applicant submitted that the applicant has in his credit nearly two years service as EDBPM and there are other vacancies at Poovakode Post Office which is now manned by the Mail Overseer. The applicant is willing to reside in the village where the Post Office is located if he is given an appointment in the vacant post. This is a matter which requires consideration by the concerned authorities if the applicant submits a request for the same. But, his right for continuing in the present post of EDBPM at Kaippally Post Office cannot be sustained for the reasons stated above. In this view of the matter, we are satisfied that there is no merit in this application and it is only to be dismissed. We dismiss the same subject to the right, if any, of the applicant to get a posting in other Post Office in the vacancy as pointed by the applicant and indicated in this judgment. There will be no order as to costs.

  
( R.RANGARAJAN )  
ADMINISTRATIVE MEMBER

  
( N.DHARMADAN )  
JUDICIAL MEMBER