

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 513 of 1996

Wednesday, this the 1st day of May, 1996

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Tomy Joseph,
S/o Devassia,
Mundackamattathil House,
Kaloore East PO, Thodupuzha.

.. Applicant

By Advocate Mr. TA Shaji

Versus

1. The Director,
Central Plantation Crops
Research Institute, Kasaragod.

2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.

.. Respondents

By Advocate Mr. CN Radhakrishnan

The application having been heard on 1st May, 1996, the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicant a temporary official under first respondent, challenges A7 order terminating his services under Rule 5 of Central Civil Services (Temporary Service) Rules, 1965. The impugned order states that:

"his performance during the extended period of probation, in spite of written warnings and advice:

..... was far from satisfactory".

2. According to applicant, this order is only a camouflage for a punishment, and one Dr. Hegde (not a respondent herein) was instrumental to this. Dr. Hegde was instrumental to this, because applicant out of compassion for an ailing calf brought

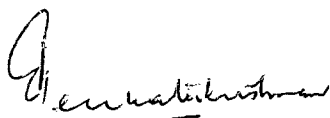
the matter to the notice of Dr. Hegde and this infuriated him, states applicant. We cannot make facile assumptions of malafides against Dr. Hegde or anyone else for that matter. Incidentally, other records produced by applicant show that his work was not satisfactory (Ann. A2 and A3).

3. An order of discharge is not liable to be interfered with, though the description of the order may not be conclusive of its character. If an order of discharge is punitive in substance, then it is liable to be interfered with. But if it is not, it will not be interdicted (See Principal, Institute of Post Graduate Medical Education & Research, Pondicherry Vs. S. Anel & Others [1996] 32 ATC 152). There is no basis to think that A7 is punitive in character. A2 and A3 give a contra indication. A7 is not liable to be quashed.

4. Notwithstanding this, learned counsel for applicant who argued his case very persuasively submitted that the opportunity of taking an examination will be lost to applicant by reason of A7, even in the event of his appeal being allowed by the higher authority. This apprehended misfortune can be guarded against. In the event of a higher authority reversing A7, a test will be held for applicant and depending on the marks obtained by him his claim will be considered for the post in question.

5. Application is disposed of as aforesaid. Parties will suffer their costs.

Dated the 1st May, 1996



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

List of Annexures

1. Annexure A2: True copy of the Memo F.No.6(1267)/93-
Estt dated 14/12/94 issued by the Acting Senior
Administrative Officer, Central Plantation Crops
Research Institute, Kasargod.
2. Annexure A3: True copy of the Memo No.F48(1)4/95-Conf. dated
8/5/95 issued to the applicant by the 1st
respondent.
3. Annexure A7: True copy of the Order No.F7(2)KSD/96-Conf1.
dated 20/4/96 issued by the 1st respondent.