

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 52
T. A. No.

199 1

DATE OF DECISION 5.2.92

M. Krishna Das _____ Applicant (s)

Mr. M. K. Damodaran _____ Advocate for the Applicant (s)

Versus

The Supdt. of Post Offices, Manjeri Division and others Respondent (s)

Mr. K. A. Cherian, ACGSC for R 1-3 Advocate for the Respondent (s)
Mr. T. G. George, State Govt. Pleader for R-4

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

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

JUDGEMENT

MR. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

In this case the applicant was appointed provisionally as EDSPM, Ramapuram by Annexure-I order dated 5.3.1990 in the put off vacancy of the regular incumbent facing disciplinary proceedings. While the applicant was so working provisionally the respondents issued Annexure--VII order dated 5.12.1990 directing Shri C. Kunhimohamed, CA Divisional Office, Manjeri to take over charge as SPM, Ramapuram terminating the temporary arrangement in that post office. The Town Employment Officer, the 4th respondent also issued a

notification Annexure-VIII dated 26.11.90 for filling up the vacancy of EDSPM, Ramapuram and inviting applications for interview and selection. It is at this juncture that the applicant filed this application seeking various reliefs.

2. He also prayed for an interim direction to direct the first respondent to provisionally reinstate the applicant as EDSPM till the disposal of the O.A. and stay of further proceedings in pursuance of Annexure-VIII notification. On 10.1.91 when the application was admitted, a direction was issued that status quo as regards filling up of the post of EDSPM, Ramapuram be maintained till 24.1.91, which was extended till 5.2.1991.

3. When the matter came for consideration on 5.2.91, we felt that as the appointment order given to the applicant (A-IV) carried with it an implication that his service can be terminated only after regular selection and ~~regular basis~~ is made, it was not proper to terminate the service in any other manner.

Accordingly, we directed that the applicant should be reinstated to the post. The learned counsel for the respondents did not submit then that, in the meanwhile, selection had already been made and one Smt. P. Radha had already been selected nor was it stated that the applicant was also considered in the selection.

4. Today, when the matter was finally heard, we notice that the respondents have filed a reply in which it is stated that in pursuance of Annexure A-VIII notification *including the applicant* all the candidates/were called for interview and, on the basis of merit, one Smt. P. Radha has been provisionally selected for the post. She was also given training and was appointed to the post. That order was kept in abeyance only because of the Interim Direction passed in this case.

5. In the circumstances, the applicant ought to have impleaded the selected candidate Smt. P. Radha also to get proper relief in this application.

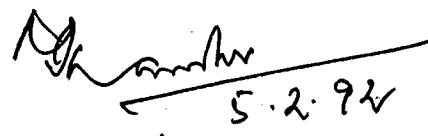
6. When this was pointed out to the learned counsel for the applicant he did ~~feel~~ that this course should have been taken.

7. In the circumstances, we are of the view that so far as this application is concerned, the prayer made ~~has to be~~ *I can have now* ~~rejects~~ modified. The only grievance ~~of~~ the applicant, is against the regular selection of Smt. P. Radha. Admittedly, that *he but has* candidate has already been selected ~~and have~~ been kept out only because of our interim order dated 5.2.91, for nearly a year now.

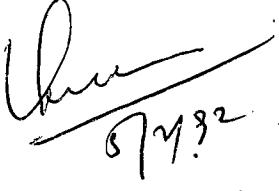
8. *Il lones* We only like to add that, though we had passed an Interim order on 5.2.91 directing the reinstatement of the

of the applicant in the said post, it was open to the respondents to seek vacation of that order on the ground that Smt. P. Radha has already been selected. As no such petition was filed, the interim order has continued so long.

9. In the circumstances, we are of the view that this application has become infructuous and it can be disposed of by vacating our interim order dated 5.2.91 and permitting the respondents 1 & 2 to induct the selected candidate as EDSPM, Ramapuram in place of the applicant. We do so. We however, make it clear that this judgment will not stand in the way of the applicant from challenging the selection and appointment of Smt. P. Radha, if so advised, in an appropriate ~~forum~~ proceeding in accordance with law.


5.2.92

(N. DHARMADAN)
JUDICIAL MEMBER


5.2.92

(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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