

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Original Application No.516/86

M. Sankaran Kutty --- Applicant
Versus
The General Manager,
Telecommunications. --- Respondent
M.G.K. Menon --- Counsel for Applicant.
P.A. Mohammed, ACGSC --- Counsel for Respondent

CORAM

Hon'ble Shri Birbal Nath - Administrative Member
Hon'ble Shri G.Sreedharan Nair - Judicial Member

O R D E R

(Order pronounced by Shri Birbal Nath, Administrative Member).

Shri Sankaran Kutty, Sub-Divisional Officer, Telegraphs, Irinjalakuda, the applicant, per his application No.O.A.516/86 filed ^{before} the Tribunal has prayed for setting aside Annexure II & IV both of which did not permit him to cross Efficiency Bar and earn increment from Rs.1000 to Rs.1040 with effect from 1.3.1985. The applicant has challenged the impugned action of the Respondent in not permitting him to cross the Efficiency Bar on the ground that no specific ground has been mentioned as to why the applicant was not considered fit to cross the Efficiency Bar and that this action was arbitrary and malafide because he ^{by} ~~vide~~ O.P.No.9218/83 filed in the High Court of Kerala had questioned the award of adverse entries to him for the year 1982-83 and also that he had filed another O.P.No.4371/84 against the order of his transfer from Irinjalakuda to Bombay. According to the applicant both the petitions were heard by the High Court of Kerala

and his transfer to Bombay was cancelled as unjustified and had directed that the appeal of the applicant in the matter of adverse entries be disposed of.

2. Respondents in their counter refuted that there was any relationship between the filing of OPs by the applicant in the Kerala High Court and denial of crossing of Efficiency Bar to him subsequently. They sought to reveal some deficiencies in the working of the applicant through Exbt.R.3, an Inspection Report made by the General Manager, Telecommunications on 28.7.83. They denied the allegations of malafide and averred that the case of the applicant had been reviewed by a committee consisting of Senior Officers who had carefully considered the suitability of the applicant to cross the Efficiency Bar.


3. At the Bar it was argued on behalf of the applicant that the order denying Crossing of the Efficiency Bar of the applicant was a non-speaking order and that it was vitiated by malafide and bias. It was further argued that the applicant had made allegations in his OPs before the High Court of Kerala against the members of the committee which had examined the case of the applicant.

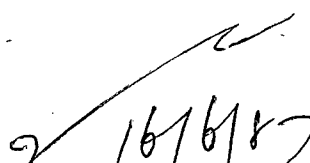
4. We have given careful thought to the arguments advanced at the Bar and the documents placed before us. At the outset we would like to say that we have to ignore the Inspection Report (Exbt.R.3) which was prepared on 28.7.83 i.e. subsequent to the date the applicant was due to cross the Efficiency Bar. We will also not like to dwell upon the consequent benefit ^{to} of the applicant arising out of the acceptance of the recommendations of the IVth Pay Commission Report. So far as the allegation of malafide are concerned, the applicant has not made any specific allegation nor did he produce copies of the OPs filed in the High Court to bring out these allegations. In the absence of specific allegations and evidence in support there of the allegations of malafide cannot be accepted. The argument of the applicant that he has been denied crossing of Efficiency Bar through a non-speaking order cannot also be accepted because it is an administrative order and made in accordance with the procedure laid down. Denial of crossing of Efficiency Bar is not a penalty in terms of CCS(CCA) Rules. For administrative orders with civil consequences compliance of the prescribed procedure provides adequate validity. In this case, the case was reviewed twice by a Committee

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though only by circulation. Since the crossing of the Efficiency Bar was not allowed as per the procedure laid no legal challenge can be extended to the action taken by the Respondents.

5. Since the application is ^{found} ~~on~~ without merit the same is hereby rejected.


(G. Sreedharan Nair)
Judicial Member
16-6-1987


(Birbal Nath)
Administrative Member
16-6-1987

Index: ~~Yes~~/No

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