

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 517/98

Tuesday, this the 16th day of November, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

N. Velayudhan,
Accountant
(Time Bound One Promotion),
Neyyattinkara Head Post.

...Applicant

By Advocate Mr. G. Sasidharan Chempazhanthiyil

Vs.

1. Superintendent of Post Offices,
South Postal Division,
Thiruvananthapuram.
2. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.
3. Director General,
Postal Department,
New Delhi.
4. Saji Sam George,
Accountant (Office Assistant),
Postal Superintendent Office,
South Division,
Thiruvananthapuram.
5. R. Satya Das,
Accountant
(Time Bound One Promotion),
Thycaud Head Post,
Thiruvananthapuram.
6. K.V. Kumar,
Postal Assistant
(Time Bound One Promotion),
Grade II, Thycaud Head Post,
Thiruvananthapuram.
7. K. Kesavan,
Accountant,
Thycaud Head Post Office.

...Respondents

By Advocate Mr. P.R. Ramachandra Menon, ACGSC

The application having been heard on 16.11.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-8 and A-12, to declare that
he is entitled to continue as Lower Selection Grade Accountant

under the 1st respondent in preference to respondents 4 to 7 or any one of them and to direct the 1st respondent to pass orders accordingly.

2. The applicant was transferred from the post of Accountant as Lower Selection Grade Postal Assistant as per A-8 dated 24.4.1997. Aggrieved by the same, he approached this Bench of the Tribunal by filing O.A. 589/97. On the basis of the submissions made by both sides in the said O.A., A-10 order dated 14.1.1998 was passed directing the 7th respondent therein, the Director General, Department of Posts, New Delhi, to issue necessary clarifications sought as per A-9 in that O.A. dated 5.3.1997 within a period of three months from 14.1.1998 and thereafter, the 3rd respondent to dispose of the representation submitted by the applicant within a period of one month. It was also ordered as per A-10 that the impugned order of transfer shall be kept in abeyance till then. After A-10, A-12 has been passed by the 2nd respondent, the Chief Postmaster General, Kerala.

3. One of the grounds stated in the O.A. is that in A-10, there is a clear direction to the 3rd respondent to issue necessary clarifications but the 3rd respondent has not chosen to clarify and therefore, there is non-compliance of A-10 order. The 3rd respondent, herein was the 7th respondent in O.A. 589/97.

4. Respondents, in the reply statement have stated that the 3rd respondent herein directed the 2nd respondent to decide the matter based on the existing rules and in case, the issue could not be resolved, the Directorate may again be approached and by this, " the Directorate implied that the existing rules are sufficient for taking a decision on the said issue. This

instruction from the 3rd respondent to the 2nd respondent itself has served as a clarification to proceed in the matter based on the existing instructions."

5. In A-12, it is stated by the 2nd respondent thus:

" DG posts had directed the CPMG to decide the case based on the existing rules and in case the issue cannot be resolved, the Directorate may again be approached. Though it is not clarificatory in nature, the Directorate has implied that the existing rules are sufficient for taking decisions on such issues. But have also assured resolving the problem if it gets complicated."

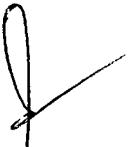
6. The reply statement is filed by the 1st respondent for and on behalf of all the official respondents. In the reply statement, it is stated that the 3rd respondent directed the 2nd respondent to decide the case based on the existing rules and this instruction from the 3rd respondent to the 2nd respondent itself has served as a clarification to proceed in the matter based on the existing instructions. But the 2nd respondent has rightly understood it as it is evident from A-12 that it is not a clarification. In A-12, the 2nd respondent has clearly stated:

" Though it is not clarificatory in nature, the Directorate has implied that the existing rules are sufficient for taking decisions on such issues. "

Though the Chief Postmaster General, Kerala was quite aware that no clarification has been issued by the Director General of Posts, the 1st respondent, the Superintendent of Post Offices, very confidently says that the instruction to proceed with the existing rules is a clarification. It seems probably that the 1st respondent thinks that his understanding is far above than

that of the 2nd respondent. It is high time for the 1st respondent to understand what is meant by a clarification. But anyway, the 2nd respondent has rightly understood that there was no clarification issued by the Director General of Posts.

7. An authority working under the Director General felt that a clarification was required. That authority sought for clarification and it was submitted before this Bench of the Tribunal while O.A. 589/97 was heard. As the Director General, Postal Department, did not issue any clarification, it was directed by this Bench of the Tribunal as per A-10 order that the 7th respondent shall issue the necessary clarifications sought. When there is an order of the Tribunal directing the Director General, Postal Department, to issue necessary clarifications sought by an authority below in cadre to the Director General, the duty of the Director General is to issue necessary clarifications and not simply direct the authority concerned to decide the matter based on the existing rules. The Chief Postmaster General could have disposed of the matter in the light of the existing rules. As the Chief Postmaster General felt that ~~some~~ clarification was necessary, clarification was sought from the Director General, Postal Department. The Director General, then should not have directed the Chief Postmaster General to decide the case in the light of the existing rules. The Director General of Postal Department should have complied with the direction of this Court as per A-10 by giving necessary clarifications. It appears to be a case that either Director General of Postal Department has not read A-10 order or if read, has not understood the direction contained there. In either case, it depicts a very sad situation. The conduct of the Director General of Postal Department is only to be deprecated. A person holding a responsible post should realise his responsibility and discharge it in a proper way.



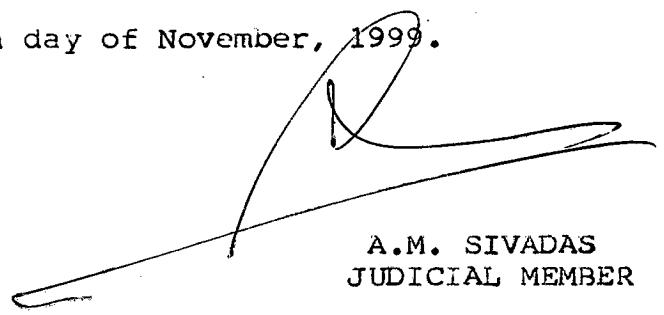
A person holding a responsible post, when a clarification is sought on a particular point by an authority working under him, cannot escape by saying that the authority working under him may dispose it of according to the rules. When there is an order from the Tribunal, it is all the more imperative for the Director General of Postal Department to issue the clarification sought by the Chief Postmaster General. From A-12, it is seen that the Director General of Postal Department is interested in giving necessary clarification only if the issue gets complicated.

8. Since A-12 order is not in compliance with the direction contained in A-10, it is only to be quashed.

9. Accordingly, A-12 is quashed. The 3rd respondent, the Director General of Postal Department, New Delhi, is directed to issue necessary clarifications as directed in A-10 order within two weeks from the date of receipt of a copy of this order. The 2nd respondent, on receipt of the clarifications from the 3rd respondent, the Director General of Postal Department, New Delhi shall consider the representation of the applicant afresh and pass appropriate orders within a period of one month from the date of receipt of the clarifications from the 3rd respondent. A-8, the order of transfer, to the extent it relates to the applicant shall be kept in abeyance till then.

10. O.A. is disposed of as above. No costs.

Dated this the 16th day of November, 1999.


A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-8:

True copy of the memo No.B/Tfr dated 24.4.97 issued by the 1st respondent.

2. Annexure A-13:

True copy of the letter No. 12/1885 dated 5.3.97 issued by the 1st respondent.

3. Annexure A-10:

True copy of the order dated 14.1.98 in O.A. 589/97 before the Hon'ble Central Administrative Tribunal, Ernakulam Bench.

4. Annexure A-12:

True copy of the letter No.ST/5/4/80 dated 26.3.98 issued by the 2nd respondent.