

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 521/99

Thursday the 8th day of July 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.Chandran
Punchath House
Perassannur P.O.
Kuttippuram (via)
Malappuram District.

...Applicant.

(By advocate : Mr M.Paul Varghese)

Versus

1. The Sub Divisional Inspector (Postal)
Ponnani Postal Sub Division
Ponnani-679577.
2. Supdt. of Post Offices
Tirur Division, Tirur-4.
3. Sri A.V.Haridasan
Andhoora Valappil House
Perassannur P.O.
Kuttippuram Via.

...Respondents.

(By advocate Ms. Rajeswari, ACGSC)

The application having been heard on 8th July 1999,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant who claims to be working as a provisional Extra Departmental Delivery Agent (EDDA for short), Perassannoor Post Office since 22.5.96 has filed this application challenging the order dated 2.12.98 (Annexure A-3) by which the third respondent was appointed on the post terminating his provisional appointment w.e.f. 3.12.98. When the original incumbent on the post was put off duty, the applicant was directed to look into the duties of the post and he continued to discharge the duties. While so, when the respondents took steps for making a provisional appointment to the same post, the applicant approached the Tribunal by filing OA 55/97. When the OA came up for hearing on admission, learned counsel for the respondents submitted that the respondents had not

intended to terminate the provisional service of the applicant, that he would not be replaced by another provisional E.D.D.A. and he would be allowed to continue till a regular appointment was made. Taking note of that undertaking, the application was disposed of directing the respondents to adhere to the undertaking given in the Bar. After the original incumbent was removed from his service, the respondents undertook the process for regular selection and the third respondent was selected for appointment. The decision to appoint the third respondent was challenged by one Sri Vasudevan in in OA 1644/97 claiming that he was more meritorious as he had obtained higher marks than the third respondent as also he was qualified in all respects. While the said OA was admitted, it was ordered that appointment if any made on the basis of the selection would be subject to the outcome of that application. However, after getting legal advice from learned Senior Central Govt. Standing Counsel, the impugned order Annexure A-3 was issued appointing the third respondent as E.D.D.A, Perassannur P.O. on 3.12.98 terminating the provisional services of the applicant and making the appointment subject to the outcome of the OA 1644/97. The applicant's grievance is that even the appointment of the third respondent by the impugned order A-3 can be considered only as a provisional appointment and, therefore, this being contrary to the undertaking given on behalf of the department to the Tribunal in OA 55/97 on 31.1.97, the impugned order is liable to be set aside.

2. We have heard the learned counsel for the applicant as also the Additional Central Government Standing Counsel appearing for the respondents. Even according to the order of the Tribunal in OA 55/97 (Annexure A-1), the applicant can be validly replaced by appointing a regularly selected

person. Though the selection and appointment of the third respondent is under challenge in OA 1644/97, till that OA reaches its final conclusion, it cannot be said that the third respondent was not validly selected or was validly appointed. The dispute regarding the validity of the selection was between Vasudevan, the applicant in OA 1644/97 and the third respondent and nobody else. The interim order in that case states that the appointment of the third respondent would be subject only to the decision in that OA. If the OA is finally dismissed, the appointment from the date it was made would be valid. Otherwise the appointment would go and the applicant in that case Sri Vasudevan would be the beneficiary. It is, therefore, idle to contend that the appointment of the third respondent is only a provisional appointment and, therefore the third respondent cannot replace the applicant validly. Finding no merit in this application, the application is dismissed in limine.

Dated 8th July 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.



A.V. HARIDASAN
VICE CHAIRMAN

Annexures referred to in this order:

- A-3: True copy of the order No.DA/Perassannur dated 2.12.98 of the first respondent.
- A-1: True copy of the order dated 31.1.97 in OA 55/97.
- A-2: True copy of the interim order dated 26.12.97 in OA 1644/97.