

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 539 of 1996.

Tuesday this the 7th day of May 1996.

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K.E. Vavichi,
Extra Departmental Branch
Post Master, Koranchira,
Kilakkanchery, .. Applicant

(By Advocate Mr. M.R. Rajendran Nair)

Vs.

1. Director of Postal Services,
Northern Region, Calicut.
2. Senior Superintendent of
Post Offices, Palakkad Division,
Palakkad. .. Respondents

(By Advocate Shri Bahuleyan for Shri T.P.M. Ibrahim Khan, SCGSC)

The application having been heard on 7th May 1996,
the Tribunal on the same day delivered the following:

O R D E R

Applicant, an Extra Departmental Branch Post Master
who is facing a disciplinary enquiry, prays that respondents
may be directed to permit him to take the assistance of one
Shri T.K. Prabhakaran during the enquiry. The requests
made in this behalf by the applicant to the respondents
have been rejected by A1 and A2 on the ground that the
person nominated as defence assistant is from a far-off place

and that a consent letter stating the details of the cases on hand as on 14.12.95 has not been submitted.

2. Applicant states that the said Shri Prabhakaran has been assisting him in this enquiry throughout from 1987 onwards. He is also willing to get the consent letter and the details of the cases as required under the rules.

3. A perusal of Rule 14(8)(b) does not reveal any necessity for a consent letter, nor is there a stipulation that the defence assistant should not have more than five cases on hand including the case in question. There is also no stipulation regarding the distance of the place where the defence assistant normally resided. The instruction (18) under Rule 14 only states:

"Retired Government servants as defence assistants.-- It has been decided that Government servants involved in disciplinary proceedings may also take the assistance of retired Government servants subject to the following conditions:--

- (i) The retired Government servant concerned should have retired from service under the Central Government.
- (ii)) } Cancelled.
- (iii))
- (iv) If the retired Government servant is also a legal practitioner, the restrictions on engaging a legal practitioner by a delinquent Government servant to present the case on his behalf, contained in Rule 14(8) of the C.C.S.(C.C.A) Rules, 1965, would apply.

(G.I., M.H.A. (Department of Personnel),

O.M. No. 35014/1/77-Ests.(A) dated the 24th August, 1977 and O.M. No. 11012/19/77-Estt.(A), dated the 3rd June, 1978.)

It has since been decided that there need be no restrictions in regard to the period during which retired Government servant can assist a serving Government servant involved in disciplinary proceedings and the number of cases which he may handle at any given time. In the circumstances, sub-paragraphs (ii) and (iii) of para.1 above may be treated as cancelled. The other conditions will, however, remain in force.

(G.I., M.H.A., D.P. & A.R., O.M. No. 11012/1/83-Estt.(A)., dated the 2nd May, 1984.

(Emphasis supplied)

4. After hearing counsel on both sides I direct respondents to permit applicant to take the assistance of the said Shri Prabhakaran as defence assistant in the enquiry in question. He may also be permitted to appear on 14.5.96 on which day the enquiry is stated to commence. This direction is subject to the condition that applicant satisfies the inquiring authority on or before 14.5.96 that the person nominated by him as defence assistant satisfies the instruction extracted above.

5. Application is disposed of as aforesaid. No costs.

Tuesday this the 7th day of May, 1996.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure A1: True copy of the Order No. INQ/ASP/02/95 dated 5/2/96 issued by respondent No.2 to the applicant
2. Annexure A2: True copy of the Order No. Staff/30-Misc/8/96 dated 22/3/96 issued by the 1st respondent to the applicant