

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 544 of 1990
~~T. A. No.~~

DATE OF DECISION 21-6-1991

L Mangalam Applicant (s)

M/s CS Rajan &
Thomas John Advocate for the Applicant (s)

Versus

Union of India & 3 others Respondent (s)

Mr KA Cherian, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

SP Mukerji, Vice Chairman

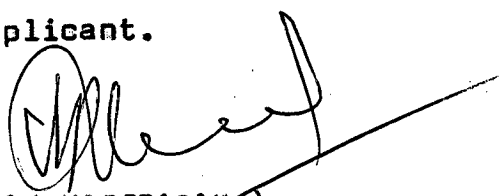
In this application dated 26.6.1990, the applicant who has been working as Extra Departmental Sub Post Master, Ambalapuzha East since 1981 has challenged the impugned order dated 9.5.1988 at Annexure-A1 by which her basic allowance has been reduced from Rs.620/- to Rs.505/- on the ground that on the basis of the time test on Government work conducted in that Post Office, she is entitled to ^{only} the basic allowance of Rs.505/- only.

2. We have heard the learned counsel for the parties and gone through the documents carefully. The respondents have conceded in para-4 of their counter affidavit that the

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applicant has to be present in her office for 5 hours from 10.00 AM to 3.00 PM. It has also not been denied that the impugned order reducing the basic allowance was passed by the respondents without giving a notice or an opportunity to the applicant to defend her case. It is now established law that no administrative ^{order} with civil adverse consequences can be passed without giving a notice to the person likely to be affected adversely by that order. ^{Addedly} But the allowance at the rate of Rs.620/- is a right vested with the applicant which cannot be taken away ^{or reduced} without giving an opportunity to the applicant to defend her case. ^{Such a reduction} This is obviously against the principles of natural justice. We are also inclined to think that when ^{number of} the working hours is not reduced and the applicant has to be in the ^{post} office without any reduction of the period of duty, she would not be ~~available~~ ^{able} to supplement her income by other ^{means} ~~means~~ and therefore reducing the allowances on the ground that she ^{would} ~~will~~ not be fully engaged during the duty hours, will not be fair. It is also revealed from the counter affidavit that there was a proposal to upgrade this Sub Post Office to a Departmental Post Office. In that context also, the reduction of her ~~basic~~ ^{xxxxx} allowance seems to be out of tune with what ^{the} ~~what~~ circumstances warranted. From Annexure-A1 also it is revealed that it is ~~only~~ in the case of the applicant ^{only this} basic allowance has been reduced, whereas in other 15 cases, the basic allowance has been ^{retained} ~~given~~ at the same level and in one case ^{even} increased.

3. In the conspectus of facts and circumstances, we allow the application, set aside the impugned order at Annexure-A1 dated 9.5.1988 in so far as the applicant is concerned and direct that the basic allowance of the applicant should be restored as if the impugned order in so far as the applicant is concerned had not been passed w.e.f. 5.9.1987. If the respondents ^R want to bring about any change in the quantum or pattern of the basic allowance, they are at liberty to do so, in accordance with law, after giving due notice to the applicant.


(AV HARIDASAN)
JUDICIAL MEMBER


(SP MUKERJI)
VICE CHAIRMAN

21-6-1991

trs