

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 568/91
XXXXXX

XXX

DATE OF DECISION 13-7-92

C.P. Krishnan

Applicant (s)

Mr. G.Sasidharan Chempazhanthi Advocate for the Applicant (s)

Versus

Sub-Divisional Inspector of Respondent (s)
Post Office, Kottakkal & 3 ors.

Mr. George Joseph for R. 1 to 3 Advocate for the Respondent (s)

Mr. D.Sreekumar for Resp. 4

CORAM :

The Hon'ble Mr. P.S.Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N.Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *NO*
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

MR. N.DHARMADAN, JUDICIAL MEMBER

The applicant who is at present working as E.D.D.A. Kanmanam P.O. in a regular vacancy filed this application for a direction to Respondents 1 & 2 to regularise his service in the light of Annexure-IV & V and also to quash all proceedings taken by the 1st Respondent to conduct a fresh selection for the post of E.D.D.A., Kanmanam.

2. According to the applicant he has continuous service ~~in~~ the same Post Office from 28.6.90, ^{as} from the date of Annexure-I charge report. He ~~had~~ submitted that a regular selection was made by the 1st Respondent by calling a list

of eligible candidates from the Employment Exchange, Tirur Town (4th respondent) for selection to the post of EDDA, Kanmanam. The applicant being the sole candidate nominated by the 4th respondent, the 1st respondent invited applications from others for an open selection as per Annexure-III notice. The applicant was selected after the interview by the 1st respondent and he was appointed as per Annexure-IV order. Later, he was directed to produce original certificates. Accordingly he produced the same. After verification of all the certificates the 1st respondent sent Annexure-V communication to the applicant directing him to produce the prescribed declaration forms to be filled up for making regular appointment. The applicant also complied with all these directions. In the mean time there was a change of the incumbent in the office of the 1st respondent and the new incumbent (the present person incharge of the office of the 1st respondent) did not pursue the matter by making a regular appointment of the applicant pursuant to Annexure-IV and V. Applicant submitted representations Annexure-VI & VII for getting regular appointment. Without considering these representations the 1st respondent started steps for a fresh selection to the post in which the applicant has been ~~work~~ ^M selected and working. According to the applicant this is illegal.

3. Admittedly the applicant was appointed after following a selection procedure. Annexures IV & V show that the department was inclined to appoint the applicant on a regular basis.

4. In the reply statement the respondents have taken the plea that the applicant was not regularly selected and his appointment as per Annexure-IV is only provisional and

that he has no right to continue as a regular EDDA. It is further submitted in the reply that the 1st respondent made an error in processing the selection and issuing the appointment order to the applicant. Hence, he has cancelled all the earlier proceedings and initiated fresh steps for a regular selection to the post of EDDA, Kanmanam Post Office.

5. It is admitted by the respondents that Annexure-III notification was issued notifying the vacancy and inviting applications from candidates and that seven candidates submitted their applications for the post and thereafter Annexure-IV appointment order was issued to the applicant. However, it is stated that even though applications were received no interview was conducted for selecting a candidate from among the applicants.

6. The statement of the 1st respondent that there were some irregularities in the earlier selection proceedings and thereby he has cancelled that proceedings and initiated fresh proceedings cannot be accepted, particularly when he has not shown his power to cancell the proceedings suo-moto and taken^u fresh proceedings for selection when there is no complaint from any of the candidates who submitted their applications for the post pursuant to Annexure-III notification or from any other sources. The rules do not provide any such power for the 1st respondent. The 1st respondent has no power of review of his own proceedings nor does he possess any suo-moto power of cancelling the action which he has already taken in connection with the appointment of an EDDA in the Post Office. The applicant has a case that after issue of Annexures IV & V the incumbent of the 1st respondent changed and that is the sole reason for the cancellation of the earlier selection and initiation of steps for fresh selection. This allegation in the O.A. has not been specifically denied.

7. Under the above mentioned circumstances we are of the view that the steps now taken by the 1st respondent for conducting fresh selection of the EDDA without cancelling all the earlier selection proceedings by the competent authority cannot be allowed to be continued. The alleged cancellation of the earlier proceedings by the 1st respondent is not in accordance with law.

8. With the result, we allow the application and quash the proceedings of the 1st respondent already initiated by him for a fresh selection to the post of EDDA, Kanmanam. We, therefore, direct the respondents to regularise the service of the applicant as EDDA, Kanmanam, pursuant to Annexures IV & V, if he ^{Meets} ~~Meets~~ satisfies ^{Meets} ~~Meets~~ all the requirements. ^{Under law.} The application is allowed. There will be no order as to costs.

N. Dharmadan
13.7.92

(N.DHARMADAN)
JUDICIAL MEMBER

P.S. Habeeb Mohamed
13.7.92

(P.S.HABEEB MOHAMED)
ADMINISTRATIVE MEMBER