

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.59 of 1998.

Friday this the 25th day of August, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

M. N. Ajithkumar
Extra Departmental Delivery Agent,
Edakkattuvayal.P.O.
Arakunnam.

- Applicant

By Advocate Mr. P. C. Sebastian

vs

1. The Sub Divisional Inspector(Postal),
Tripunithura Sub Division,
Tripunithura-682 301.

2. The Senior Superintendent of Post Offices,
Ernakulam Division,
Kochi-682 011.

3. The Postmaster General,
Central Region,
Kochi-682 016. - Respondents

By Advocate Mr. James Kurian, ACGSC

The application having been heard on 25.8.2000, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-1 and to delcare that
he is entitled to continue as Extra Departmental Delivery
Agent (EDDA for short), Edakkattuvayal P.O. and also that his
services are not liable to be terminated under Rule 6 of the
Posts and Telegraphs ED Agents (Conduct and Service) Rules
except for unsatisfactory work and any other administrative
reason that arose after his appointment.

2. The applicant was working as EDDA, Edakkattuvayal P.O. on a regular basis as per A-2. He is now served with A-1 termination notice by the first respondent under Rule 6 of the P&T ED Agents (Conduct & Service) Rules. A-1 is arbitrary and illegal, says the applicant.

3. Respondents resist the O.A. contending that the appointment of the applicant is irregular. His appointment was made by the first respondent before sanction was granted by the authority concerned. The 2nd respondent is vested with the power to review and pass appropriate remedial orders in case of irregular appointment as per Annexure R-2. In the instant case, the appointment of the applicant was found to be irregular and therefore the 2nd respondent reviewed the case and directed the first respondent to issue suitable show cause notice to the applicant as per Annexure R-3.

4. A-1 says that it is a notice of termination of service, issued under Rule 6 of P&T ED Agents (Conduct and Service) Rules, 1964. It is the specific case of the respondents that there was irregularity in the appointment of the applicant and the 2nd respondent as per Annexure R-2 has got the right and authority to review and pass appropriate remedial orders. Annexure R-2 is the copy of the letter of the Director General of Posts No. 19-23/97 ED and TRG dated 13.11.97. Therein para 3 (ii) it is clearly stated that:

"There is no need to invoke ED Agents (Conduct and Service) Rules while passing final orders in such cases."



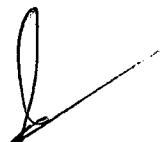
Though the respondents specifically say that the power of review is vested with the 2nd respondent based on Annexure R-2, it appears that the respondents have not understood what the R-2 really contains. In the light of Annexure R-2, there cannot be any question of invoking ED Agents (Conduct & Service) Rules.

5. A-1 says that representation if any, against the same should be submitted by the applicant. In pursuance of A-1, applicant submitted A-5 representation. The same has not been disposed of.

6. In para 11 of the reply statement it is stated that the representation of the applicant was under active consideration of the respondents and the respondents were preparing to issue a speaking order but before doing that a

7. In Annexure R-3 it is stated that representation if any, received against the notice, will be forwarded to the 2nd respondent, Senior Superintendent, for appropriate further directions. In that situation A-5 representation submitted by the applicant to the first respondent is to be forwarded to the 2nd respondent by the first respondent who is to consider and pass appropriate orders.

8. Accordingly, the first respondent is directed to forward A-5 representation to the 2nd respondent and the 2nd

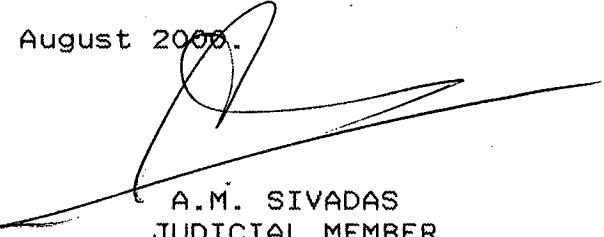
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respondent is directed to consider and pass appropriate orders as expeditiously as possible. The services of the applicant shall not be terminated before the disposal of the representation.

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

Dated the 25th August 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

rv

List of Annexures referred to in the order:

Annexure A-1: A true copy of Memo No. DA/M.N. Ajith dated 19.12.97 issued by the Ist respondent to the applicant.

Annexure A-2: A true copy of the order No. GL/40 dated 19.3.1997 issued by the Ist respondent to the applicant.

Annexure A-5: A true copy of the representation dated 7.1.98 submitted by applicant to the Ist respondent.

Annexure R-2: Copy of letter No.19-23/97/ED&TRG dated 13.11.1997 Director General of Posts, New Delhi.

Annexure R-3: Copy of Memo No.SSP/Con/1-2/97-98 issued by Senior Superintendent of Post Offices, Ernakulam Division, Cochin-11, dated 18.12.1997.