

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No.60/97

Wednesday this, the 2nd day of April, 1997.

CORAM:

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

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

N.Sreedharan,  
Sorting Assistant,  
Railway Mail Service,  
(Trivandrum Division),  
Department of Posts,  
Tiruvalla -689 101.

..Applicant

(By Advocate Mr.K.Gopalan)

vs.

1. The Senior Superintendent,  
Railway Mail Service  
(Trivandrum Division),  
Department of Posts,  
Thiruvananthapuram-695 003.
2. The Chief Postmaster General,  
Kerala Postal Circle,  
Office of the Chief Postmaster General,  
Trivandrum -33.
3. Mr.P.K.Raghavan,  
Higher Selection Grade II Sorting Assistant,  
Head Record Office,  
Railway Mail Service(Trivandrum Division),  
Trivandrum -695 001.
4. Mr. Raveendran Nair,  
Higher Selection Grade II Sorting Assistant,  
Head Record Office,  
Railway Mail Service (Trivandrum Division),  
Trivandrum- 695 001.
5. Mr. P.G.Rajappan,  
Higher Selection Grade II Sorting Assistant,  
Sub Record Office,  
Railway Mail Service (Trivandrum Division),  
Kottayam.
6. Mr. Alfonse K.Thomas,  
Higher Selection Grade II Sorting Assistant,  
Sub Record Office,  
Railway Mail Service(Trivandrum Division),  
Kottayam.
7. Union of India represented by the Secretary,  
Ministry of Communications,  
Department of Posts,  
Central Secretariat,  
New Delhi. ..Respondents.

(Advocate Mr.T.R.Ramachandran Nair,ACGSC (R1,2 & 7)

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The Application having been heard on 2nd day of April 1997, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

Applicant an ex-serviceman re-employed as a Sorting Assistant in the Railway Mail Service presently posted at Tiruvalla is aggrieved by the fact that though he has been suffering from a disability for doing strenuous work including writing on account of Ostro Arthritis as certified by the Medical Officer, respondents do not consider giving him a posting which does not involve writing. It is alleged in the application that respondents 3 to 6 who are also Sorting Assistants have been given postings in non accountable section and not to give him such a facility is arbitrary and irrational. The request of the applicant for such a posting has been turned down by the respondent department by A-3 order. Under these circumstances, the applicant has filed this application impugning the A-3 order and praying for the following reliefs:-

- i) To issue a writ in the nature of mandamus directing the respondents 1 and 2 to assign duty(work) to the applicant in the Unaccountable Branch(Section) not involving clerical work at the Sub Record Office of the Railway Mail Service at Tiruvalla.
- ii) To grant such other reliefs to the applicant as this Hon'ble Tribunal may deem just and necessary in the circumstances of the case.

2. The respondents in their reply have stated that the work of Sorting Assistant even in unaccountable sections involves writing and that the attempt of the applicant is

only to evade work as the medical certificate only shows that he may not be in a position to do the strenuous work with the hand. Regarding the posting given to Respondents 3 to 6 the respondents 1 and 2 contend that Respondents 3 and 4 are suffering from grievous disabilities and regarding Respondents 5 and 6 no specific reason has been stated as to why they were so posted. The departmental respondents contend that applicant does not deserve any compassionate treatment and that the application is liable to be dismissed.

3. Having heard the learned counsel on either side and having perused the pleadings and material available on record, we are of the considered view that there is a humanitarian aspect apart from the legal one that has to be considered while taking a decision in the matter. Though the respondents in their reply have stated that the attempt of the applicant is to evade work, they have no case that since 1979 till recently he had made any attempt to evade work. The medical certificate produced by the applicant (A-4) shows that the applicant is suffering from a disease which renders him unfit to strain his hand. This is an aspect which the respondents should have considered before outrightly turning down the request to give him a posting where writing is not involved. When the respondents 5 and 6 who are normal persons without any disability, are given posting where writing is not required, we do not find any reason why the official respondents should not consider giving the applicant a

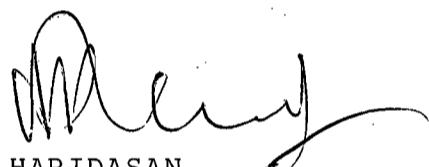
similar posting. It goes without saying that a person put in the congenial circumstances would be able to do his best whereas a person at stress and strain cannot be expected to turn out his best. We are of the considered view that the competent authority in the department should have considered this aspect.

4. In the light of what is stated above, we dispose of the application with a direction to the respondents 1 and 2 to accommodate the applicant on a post in an unaccountable branch or on any other post where he may not have to do much of writing work considering his incapability. There is no order as to costs.

Dated the 2nd April, 1997.



P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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List of Annexures

1. Annexure A3: True copy of letter No.B/ya/17/96 dated 16.9.96 from the Senior Superintendent, Railway Mail Service, Trivandrum Division to the Sub Record Officer, Railway Mail Service, Tiruvalla.
2. Annexure-A4: True photostat copy of medical certificate dated 4.3.96 issued by Dr.MR. Radhakrishnan of Govt. Hospital, Thiruvalla.