

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.600/94

Thursday, this the 9th day of February, 1995.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

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1. K Divakaran Nair, Sub Post Master,  
Kozhikode City.
2. PS Gurukkal,  
LSG Postal Assistant.(Poyil House,  
Cheruvannur PO, Meppayyur, Kozhikode).

....Applicants

By Advocate Shri MR Rajendran Nair.

vs.

1. The Senior Superintendent of Post Offices,  
Kozhikode.
2. The Post Master General,  
Northern Region, Kozhikode.
3. The Chief Post Master General,  
Kerala Circle, Trivandrum.
4. Union of India represented by Secretary,  
Department of Posts, New Delhi.

....Respondents

By Shri C Kochunni Nair, Senior Panel Counsel.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants, who are Sub-Postmaster/LSG Postal Assistant, claim promotion with effect from the date of promotion of their juniors on the basis of their success in the departmental qualifying examination held in 1978 for promotion in the 1/3 quota of Lower Selection Grade.

2. According to them, certain persons who were ranked below them in the gradation list of Postal Assistants and who were

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successful in later years, were promoted against 1980 vacancies by A2 order dated 6.5.87, whereas applicants have been promoted against 1981 vacancies. Applicants also claim consequential benefits which have been extended to their juniors.

3. According to respondents, orders have been issued as a result of directions of the Ernakulam Bench of this Tribunal in OA 826/90 and TA 133/85 of the Madras Bench. In the impugned order A9 they state that the two judgements were not applicable to the applicants since they were not parties in those cases.

4. We find that in OA 826/90, the Tribunal has only stated that the application is closed with liberty to the applicant to file a representation regarding his claim for promotion with effect from the date of occurrence of vacancy. It is, therefore, clear that the decision to grant promotion with effect from the date of occurrence of vacancy is not a direction of the Tribunal but a decision taken by respondents. Respondents themselves state that it is a decision communicated in Director General of Posts' letter dated 12.10.90 (A6). That being the case, it is not correct to state that the benefit cannot be extended to applicants because the judgement in OA 826/90 is not applicable to them. A decision taken by departmental authorities on a policy basis will be applicable to all persons similarly situated in the department and the question whether they were impleaded as parties in some cases is not relevant.

5. As regards TA 133/85, the Tribunal stated that:

"In view of the law as laid down by the Supreme Court the stand taken by the respondents that FR 17 does not permit to grant of arrears is invalid, and legally untenable...The respondents are directed to extend

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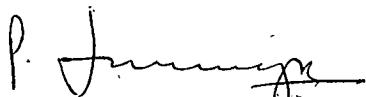
the applicants all the benefits of the promotion from the respective dates of their entitlement to promotion to the cadre of lower selection grade."

This would imply that the benefits have to be extended since the bar placed by FR 17 does not apply. When the Tribunal states that FR 17 does not prevent the grant of arrears, such a position would apply to all persons in the department similarly situated irrespective of whether they were parties in the OA or not.

6. We are, therefore, unable to sustain the impugned order A9 which is accordingly quashed. Applicants are permitted to make a fresh representation to second respondent, i.e. Post Master General, Kozhikode, within one month. If such a representation is received, second respondent shall consider the matter afresh and pass appropriate orders within two months from the date of receipt of the representation in the light of the observations made above. Second respondent shall make a factual assessment of whether the applicants herein are similarly situated as the applicants in OA 826/90 and TA 133/85 while considering the representation.

7. Application is disposed of with the aforesaid directions.  
No costs.

Dated the 9th February, 1995.

  
P. SURYAPRAKASAM  
JUDICIAL MEMBER

  
P. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure-A2: True copy of the order No.ST/5/1/83/III dated 6.5.1987 issued by 3rd respondent to the 14 others.
2. Annexure-A6: True copy of the Order No.ST/5/1/83-B/89 dated 8.11.90 issued by the 3rd respondent to the 6 others
3. Annexure-A9: True copy of the letter No.ST/14/BCR/5 dated 20.8.1993 issued by the 2nd respondent to the 1st applicant.