

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 71 of 1999.

Wednesday this the 20th day of January 1999.

CORAM

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

S.V.Renganathan,
Assistant Engineer,
Barrack and Roads,
Office of the Assistant Garrison Engineer,
Barrack and Roads/II, GE (Air Force),
Thuruvikkal P.O., Trivandrum.

.. Applicant

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Garrison Engineer, AIR Force,
Trivandrum -31.
The Commander Works Engineers Thirumala P.O.,
Trivandrum - 6.
3. The Chief Engineer (AF), No.2, D Area,
MES Road, Bangalore-22.
4. Engineer-in-Chief,
Army Head Quarters, DHQ P.O.,
New Delhi - 110 011.
5. Capt. Venkatachalaiah,
Sl.No. M, AGE B/R,
C/o GE (AIF), Trivandrum-31.

.. Respondents

(By Advocate Shri Govindh K Bharathan, SCGSC)

The application having been heard on 20th January, 1999
the Tribunal on the same day delivered the following:

O R D E R

The applicant while working as Barrack Roads
(Superintendent)Grade-I at Bangalore, was promoted and posted as
Assistant Garrison Engineer, B/R, Mukkunnimala in the Office of the
AGE(I)(A), Trivandrum in the place of Shri K.K. Achuthankutty by
A-1 order. He reported for duty on 11.8.97. Thereafter, he was
by order dated 2.9.97 (A2) put in charge of the post of AGE B/R
Sub Division (Pulayanarkotta) also. Subsequently, he was asked to
hand over the charge of AGE B/R II Pulayanarkotta to 5th respondent

who was promoted by A3 order dated 2.6.98. The applicant did not hand over the charge. Therefore, A4 dated 29.10.98 was issued by the first respondent directing the applicant to hand over the charge of the post of AGE, Pulayanarkotta to the 5th respondent. The applicant submitted representations to the 4th respondent requesting for cancellation of the order on the ground that the post of AGE, B/R Mukkunnimala was not having continued sanction. The applicant was again by order dated 23.11.98 (Annexure A6) directed to hand over the charge of AGE, B/R No.II, to the 5th respondent. The applicant did not do so. Again, by impugned order dated 8.1.99 (A8) the applicant was directed to hand over the charge of AGE, B/R II to the 5th respondent before 11.1.99 informing that if he failed to do so, disciplinary proceedings would be taken against him. The applicant has filed this application impugning A-4, A6 and A8 orders for a declaration that the applicant is entitled to continue as AGE B/R II, Pulayanarkotta Sub Division till a decision is taken in the matter by the 4th respondent and for a direction to allow the applicant to continue as AGE, B/R, Pulayanarkotta Sub Division till a decision is taken and communicated to the applicant by the 4th respondent, who is the competent authority. Applicant has alleged in the application that as the sanction for the post of AGE, Mukkunnimala expired in 1997, if he is relieved of the duties of AGE-II Pulayanarkotta he would be without a post. He has also stated that the 4th respondent is the competent authority to post the applicant and therefore till a decision is taken by the 4th respondent regarding the placement of the applicant, the impugned orders cannot be allowed to take effect.

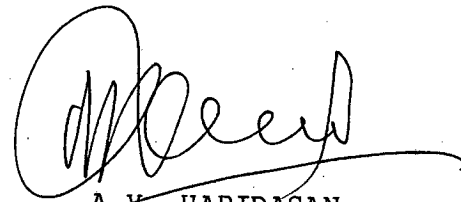
2. Heard the learned counsel appearing for the applicant as also the Senior Central Government Standing Counsel appearing for respondents 1 to 4 and have also perused the application and the

materials placed on record. I find that there is absolutely no cause of action for maintaining this application. The order by which the applicant was promoted (A1) shows that the applicant was promoted as AGE-I and posted at Sub Division-I Mukkunnimala. From A2 and the averments in the application it is evident that from 11.8.97, till 2.9.97 the applicant was working only as AGE-I Mukkunnimala and that he was put in additional charge of the post of AGE B/R Pulayanarkotta Sub Division by A2 order. When the 5th respondent was regularly promoted as AGE and allotted to Trivandrum, there was no need to continue the arrangement of additional charge by the applicant and that was why the first respondent directed the applicant to hand over the additional charge which he was holding, to 5th respondent. There was no reason or justification for the applicant to cling on to the additional charge also on which he has no right to hold. The claim of the applicant that the sanction of the post of AGE, Mukkunnimala was not extended during 1996-97 is found to be not correct in view of A1 order by which the applicant was promoted and posted as AGE, Mukkunnimala. A10 is only a copy of the letter regarding the sanction of the establishment issued in the year 1996 which does not show that in 1997 such a letter was not issued. If there was no sanction, the applicant would not have been promoted and posted as AGE, Mukkunnimala. In the impugned order A6, the applicant has been clearly told that after relinquishing the charge of AGE II, Pulayanarkotta, the applicant would perform the duties of AGE, B/R Mukkunnimala only. If there is no such post such an order would not have been issued. The claim of the applicant that only the 4th respondent would be competent to direct the applicant to relinquish the charge of AGE II Pulayanarkotta is untenable because the applicant came to hold the charge of AGE, Pulayanarkotta only

by A2 order issued by first respondent. When the first respondent is competent to put the applicant to the additional charge of AGE, Pulayanarkotta, he has the competence to direct him to hand over the charge of that post also. There is not even a transfer involved in this case. The impugned orders are routine and administrative orders directing the applicant to hand over the charge in which wastemporarily holding in addition to the charge of the post in which he was posted, and informing him that failure to do so would necessitate initiation of disciplinary proceedings. As there is no legitimate cause of action the application cannot be entertained.

3. The application is therefore, rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated this the 20th January 1999.



A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A1: True copy of the promotion cum posting order dated 19.6.97 No.MES/130/97 issued by the 4th respondent.
2. Annexure A2: True copy of the Order dated 2.09.97 No. 1002/1467/E18 issued by the 1st respondent.
3. Annexure A3: True copy of the posting order dated 2.6.98 No.A/55152/PO-056/MS 12A issued by the Maj AMS-12 for Military Secretary's Branch Army Headquarters, OHQ PO, New Delhi.
4. Annexure A4: True copy of the Order No.1002/1569 dt. 29.10.98 issued by the 1st respondent.
5. Annexure A6: True copy of the letter dated 23.11.98 No. 10077/623/E18 issued by the 3rd respondent.
6. Annexure A8: True copy of the order dated 8.1.99 No.1084/1186/E18 issued by the 1st respondent.
7. Annexure A10: True copy of the letter showing the establishments sanctioned for the year 1996-97 issued by the 1st respondent. (No.2165/277/E2 dated 16.10.96)

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