

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 72/91
XXX

199

DATE OF DECISION 12.7.1991

KR Bhasuradas

Applicant (s)

Mr PS Biju

Advocate for the Applicant (s)

Versus

The Superintendent of Post Offices Respondent (s)
Alleppey Division, Alapuzha
and others.

Mr KA Cherian for

Advocate for the Respondent (s) 1 & 2

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

The applicant is aggrieved by the fact that his appointment as Public Relation Inspector (PRI, for short), Alapuzha, which was ordered by the Annexure A1 Memorandum dated 31.10.90 has been cancelled by the impugned Annexure A5 order dated 11.1.91, by which he was relieved of that post and posted as APM (Mails), Alapuzha, in pursuance of the orders contained in the Chief Postmaster General's letter dated 8.1.91. It is pointed out that the Annexure A4 dated 27.9.75 issued by the Director General of Posts and Telegraphs contains guidelines in respect of the criterion to be followed in the selection of officials for appointment as PRIs borne on the cadre of LSG Clerks. The post of Town Inspector ~~is~~ carrying a special pay has since been

abolished and the duties of that post are performed

by the LSG officials and designated as PRIs. The

guidelines contain the following provisions:

"The official appointed to the post of PRI are like any other LSG officials and are posted to such posts entirely at the discretion of the Divisional Heads who have obviously to take into account the all round suitability of an official to perform the duties of these posts. In this connection it is felt that the younger people are generally better suited to do more than the desk work the outdoor duties which are essentially required to be performed by the PRIs. It may, therefore, be noted that while posting the LSG officials to the post of PRIs the need to have active, intelligent, energetic and meritorious officials as PRSs may be kept in view."

2 It is admitted that the applicant had earlier done a full term as PRI with effect from 30.10.82 till 1986. This is the second occasion when he was posted as such. That is not prohibited by the guidelines.

3 He therefore, prays that the Annexure A5 order be quashed.

4 In the reply, the Respondents 1 & 2 contend that even though the appointment is entirely left to the discretion of the Divisional Heads i.e., Respondent-1, yet the Chief Postmaster General, Kerala felt that in the present case the discretion was used improperly. The applicant was given a posting as PRI for a second time which was objected to by one of the Employees Unions.

Therefore, the Respondent-2, after considering the case,

directed the first respondent to post some other official in place of the applicant, as he had worked as PRI for one tenure earlier from 30.10.82 to 29.11.86.

It is on receipt of this instruction that the posting of the applicant as PRI was cancelled and the Respondent-3 was appointed to that post. It is further stated in the reply that Respondent-2 felt that the discretionary powers have not been exercised properly. It is contended that for the post of PRI, younger persons should be preferred and further this opportunity should be given to all other officials also.

5 The learned counsel for the applicant, however, submits that the guidelines do not prohibit granting a second term. While Annexure A4 guidelines states that younger people are generally suited to do the outdoor duties attached to the post of PRI, it also states that the selection should be based on all round suitability of an officer who should be active, intelligent and energetic.

He also pointed out that the last ~~incumbent~~ was a PRI till the date of his retirement. It is, therefore, contended that before the earlier order was revoked, the applicant should have been given an opportunity of being heard.

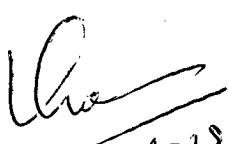
6 I notice that the matter is essentially one of posting an official to a particular post. If it were purely an administrative matter, interference in the decision taken would be justified only on very strong grounds. The position here is somewhat different. For, Annexure A4 guidelines which gives discretion to the Divisional Heads to make the posting seems to lay down some broad eligibility conditions for appointment. It is in exercise of this power that the applicant was first posted by the Annexure A1 and A3 orders. This would imply that the applicant satisfied the condition stipulated in the Annexure A4 guidelines. If, therefore, his appointment is to be cancelled on the orders of the Chief Postmaster General, natural justice demands that he be given notice first.

7 The guideline does not bar the posting of an official for the second term as P.R.I. However, one can conclude that ~~should~~ ^{it is} should be an exception to be invoked if other suitable persons are not available. Without deciding the issue, one can hold that Respondent-2, therefore, rightly felt that the appointment of the applicant to this post by Respondent-1 was not a proper exercise of

discretion. That does not mean that the appointment of the applicant could be revoked and cancelled without any notice to him, particularly when the appointment order implies that conditions referred in Annexure A4 guidelines have been ~~revised~~ ^{satis}ified.

8 In the circumstances, I am of the view that the impugned Annexure A5 order, issued without notice to the applicant, violates the principles of natural justice and, I, therefore, quash the Annexure A5 order. However, our order will not stand in the way of the ~~posting~~ ^{posting &} respondents from cancelling the applicant's ~~post~~ as PRI. However, if they choose to do so, the applicant is ~~first~~ ^{entitled} to a notice as to why his posting is being cancelled and his representation shall be considered by ~~will~~ ⁴ Respondent-2 who, then be competent to pass such orders in accordance with law as he deems fit.

9 The application is disposed of as above and there will be no order as to costs.


17/11
(NV Krishnan)
Administrative Member