

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 91 of 1997.

Friday this the 4th day of April, 1997.

CORAM:

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

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

T. Govindankutty Nair,
Group 'D', Railway Mail Service,
Ernakulam, residing at:
K.P. Vallon Road, Kochi-20. .. Applicant

(By Advocate Shri Raju K. Mathews)

Vs.

1. The Senior Superintendent,
Railway Mail Service 'EK' Division,
Ernakulam.

2. The Post Master General, Central
Region, Cochin.

3. Union of India, represented by
its Secretary, Department of Posts,
New Delhi. .. Respondents

(By Advocate Shri George Joseph, ACGSC)

The application having been heard on 4th April, 1997,
the Tribunal on the same day delivered the following:

ORDER

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

The applicant, who was a part-time Rest House Attendant, had earlier filed OA 590/93 (Annexure A.1) claiming regularisation on a group D post. The Tribunal disposed of the above application directing that the applicant be granted temporary status with effect from 29.11.1989 and consequential benefits depending on his placement in the rank list.

2. Though the applicant was granted temporary status with effect from 29.11.1989 by order dated 2.1.1995 (Annexure A.2),

contd.

consequential benefits were not granted to him. Aggrieved by that, he made a representation to respondents. Finding no response, the applicant filed OA 155/96 which was disposed of with a direction that his representation be considered and a speaking order passed within four weeks from the date of the order, i.e. 5.2.1996. On 7.3.1996, an order was passed by the Senior Superintendent, RMS Division, Kochi, regularising applicant on a group D post with effect from 29.11.1992 making it clear that the pay and allowances of applicant from 29.11.1989 to 7.3.1996 should be restricted proportionate to six hours duty and from 8.3.1996, he would be given eight hours duty and full pay and allowances as a group D (Annexure A.4). Finding that the applicant was not given the benefit of leave, increment etc, and that he was not given arrears of pay for the period from 29.11.1989 to 7.3.1996, the applicant has filed the present application with the following prayers:-

- "(i) to direct the 1st respondent to grant the applicant the benefits of leave, increment and retirement benefits as are applicable to casual labourers regularised in service;
- (ii) to direct the respondents to pay the applicant arrears of pay and allowances for the period from 29.11.1989 to 7.3.1996 taking him as having worked for 8 hours a day;
- (iii) to grant such other reliefs as this Hon'ble Tribunal deems just and fit; and
- (iv) to award costs."

3. The respondents contend that the order of the Tribunal in OA 590/93 on the basis of which the benefits were given to

contd.

the applicant is under challenge before the Supreme Court in CC-2442/95, that an interim order of stay of implementation of the order dated 27.5.1994 in OA 590/93 has been issued by the Supreme Court and that, therefore, the applicant is not entitled to the reliefs prayed for in this application. They also contend that the entire arrears of pay and allowances from November, 1989 to April, 1995 were already paid to the applicant, as is evident from the order dated 4.3.1996 (Annexure R.1) and, therefore, the prayer in sub para (ii) of para 8 does not survive.

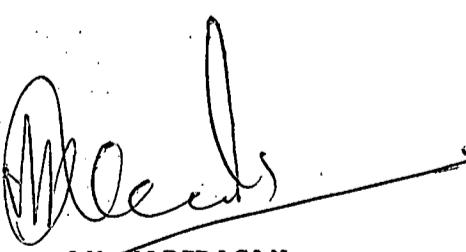
4. When the application came up for hearing, learned counsel for applicant stated that as the arrears of pay and allowances had been paid to the applicant and the decision in OA 590/93 is under challenge and as there is an interim order of stay granted to the respondents, the applicant cannot at present claim the benefits of increments, leave etc which would depend on the ultimate decision that would be taken by the Supreme Court in the matter. Therefore, no legitimate grievance of the applicant remains to be redressed at the moment. It will be open for him to seek appropriate remedy, if any, on the basis of the decision of the Supreme Court in the appeal filed against the decision in OA 590/93.

5. The application is disposed of with the above observations. No costs.

Dated the 4th April, 1997.


PV VENKATAKRISHNAN

ADMINISTRATIVE MEMBER


AV HARIDASAN
VICE CHAIRMAN

List of Annexures

1. Annexure-A1: True copy of Order dated 27.5.1994 in O.A.No.590/93 of this Hon'ble Tribunal.
2. Annexure-A2: True copy of Order No.TC/9/93 dated 2.1.1995 by the 1st respondent.
3. Annexure-A4: True copy of Order No.TC/9/93 dated 7.3.1996 by the 1st respondent.
4. Annexure-R1: True copy of the letter No.TC/9/93 dated 4.3.1996 issued by the Senior Superintendent, Office of the Senior Superintendent, Railway Mail Service, Ernakulam Division, Kochi.11. to the applicant.