

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 96 of 2003

Tuesday, this the 8th day of April, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. A. Suresh Kumar,
S/o Ayyappan Pillai,
Gramin Dak Sevak Mail Carrier (Ousted from service),
Mynagapally Sub Office, Karunagapally Sub Division,
Kollam Division, Residing at 'Kallumethu',
Muzhagodi, Thodiyur PO, Karunagapally,
Kollam District.Applicant

[By Advocate Mr. Shafik M.A]

Versus

1. Union of India represented by the
Chief Postmaster General,
Kerala Circle, Trivandrum.

2. The Sub Divisional Inspector (Postal),
Karunagapally Sub Division, Karunagapally.

3. Sri R Rajesh, EDMC, Mynagapally SO,
C/o Nadarajan, Narayinchal Colony,
Kallelibhagom, Karunagapally, Kollam District.

4. The Senior Superintendent of Post Offices,
Kollam Division, Kollam.Respondents

[By Advocate Mr. C. Rajendran, SCGSC (R1, R2 & R4)]

The application having been heard on 8-4-2003, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant was appointed as Gramin Dak Sevak Mail Carrier (GDSMC for short), Mynagappally with effect from 23-12-2000. He was continuing in that post. While so, the 2nd respondent issued the impugned order dated 27-1-2003 (Annexure A1) terminating the arrangement and appointing the 3rd respondent as a stop gap arrangement. The applicant was relieved on the basis of Annexure A1 on 28-1-2003, as per order

dated 28-1-2003 (Annexure A2). Aggrieved, the applicant has filed this application seeking to set aside Annexure A1 and A2, declaring that the applicant is entitled to continue as GDSMC, Mynagappally SO on the basis of his posting as evidenced by Annexure A3 and that the action to terminate his services as GDSMC, Mynagappally SO not in accordance with law pursuant to Annexure A1 is illegal and arbitrary and for a direction to the 2nd respondent to continue the applicant till a regular selection is conducted to the post of GDSMC, Mynagappally.

2. When the application came up for hearing on admission on 11-2-2003, Shri C.Rajendran, SCGSC took notice on behalf of respondents 1, 2 and 4 and sought two weeks' time to get instructions and to make a statement. Notice was issued by Speed Post to the 3rd respondent, which has been served. As no statement as undertaken by the learned SCGSC was filed within fifteen days, on 3-3-2003 the application was admitted and the respondents were given four weeks' time to file the reply statement. As it was felt that the matter needed to be disposed of at the earliest, the case was listed for disposal today. No statement has so far been filed by the respondents.

3. We have heard Shri Shafik MA, learned counsel for the applicant, and Shri C.Rajendran, SCGSC appearing for respondents 1, 2 and 4. As the 3rd respondent remained absent, we did not have the privilege of hearing the 3rd respondent.

4. It is not disputed that the applicant was temporarily appointed as GDSMC, Mynagappally by Annexure A3 order dated 23-12-2000 and that he has been continuing in that post. It is also evident from Annexure A1 order that the same was issued to terminate the provisional service of the applicant and to replace the applicant by another provisional employee, the 3rd

respondent. The Apex Court has in State of Haryana & Others vs. Piara Singh & Others etc.etc [AIR 1992 SC 2130] held that a provisional or adhoc employee should not be replaced by another provisional or adhoc employee. Actions in this case taken under Annexure A1 and A2 are contrary to the direction of that ruling. No reason has been stated as to why the service of the applicant was terminated and why he has been replaced by the 3rd respondent who is also a provisional appointee. We find no justification for the action taken by the respondents. The respondents despite time given have not chosen to file a reply and explain why the applicant, a provisional employee, was replaced by another.

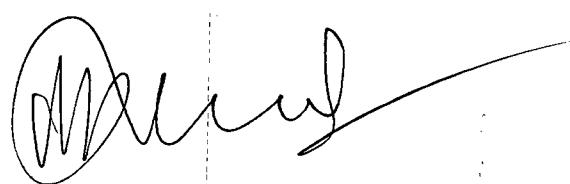
5. In the light of what is stated above, we set aside the impugned orders Annexure A1 and A2 and direct the respondents to reinstate the applicant as provisional GDSMC, Mynagappally forthwith, at any rate within one week from the date of receipt of a copy of this order, and continue him on provisional basis till a regular appointment is made or till his services are terminated in accordance with law for valid reasons.

6. The Original Application is disposed of as above. No order as to costs.

Tuesday, this the 8th day of April, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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