

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.123/2002.

CORAM: Friday this the 7th day of June 2002.

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

(By Advocate Shri T.Ravikumar (Not present))

v<sub>s</sub>.

1. The Post Master General, Central Region, Kochi-16.
2. The Superintendent of Post Offices,, Irinjalakuda.
3. The Assistant Director of Postal Service, Central Region, Kochi-682 016.
4. The Sub Divisional Inspector, Chalakkudy Postal Sub division,, Pariyaram, Thrissur-680 721. Respondents

(By Advocate Shri M.Rajeev, ACGSC)

The application having been heard on 7th June 2002 the Tribunal on the same day delivered the following:

ORDER

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

The applicant was selected and appointed as Extra Departmental Delivery Agent, Annanad Post Office, initially on a provisional basis w.e.f. 4.3.93. Thereafter by A-1 order dated 15.12.95 the appointment of the applicant was treated as regular. One Shri C.O.Davis filed O.A.104/96 challenging the appointment of the applicant. That O.A. was disposed of by order dated 6.10.97. The applicant by letter dated 26.12.97 was informed that his case for appointment would be considered only after finalisation of the departmental proceedings pending against him. Thereafter, by order dated 29.7.98 (A3) the departmental proceedings against the applicant was dropped without prejudice to any further action that might be taken against him. However,

the services of the applicant was terminated and he was never given any alternate appointment although he had rendered more than 3 years of continuous service and was entitled for being accommodated on an alternate post, as per the instructions contained in the letter of the Director General of Posts. Alleging that the applicant has not been considered for alternate appointment the applicant has filed this application for a direction to the respondents to consider the case of the applicant for alternate appointment as he has put in three years of service and also for a direction to appoint the applicant as EDDA as departmental enquiry had been dropped.

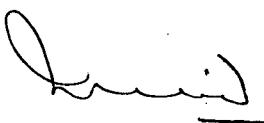
2. The respondents in their reply statement contend that the applicant does not have a subsisting cause of action because his grievance arose on 6.1.98 or at least on 29.7.98 (A3) when the Rule 8 proceedings against the applicant were dropped and that the applicant has filed this application on 13.2.2002, after a lapse of 4 years, cannot be entertained. It is further contended that the averments of the applicant in the O.A. that his appointment as EDDA, Annanad was not interfered with by the Tribunal is not correct, because, in the order in O.A.104/96, the Tribunal held that the respondents are bound to make a regular selection in which the applicant therein viz., C.O.Davis was also to be considered that, it was when a regular selection was made considering the applicant and Shri C.O.Davis, that C.O.Davis was appointed on 6.1.1998 terminating the services of the applicant and that therefore there is no merit in the application.

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3. We have perused the pleadings and materials placed on record. As the learned counsel of the applicant did not appear repeatedly though opportunities were given, we did not have the privilege of hearing the learned counsel of the applicant.

4. The services of the applicant ~~were~~ terminated w.e.f. 6.1.98. His services were terminated on 6.1.98 for appointment of Shri C.O.Davis, the person who was selected in terms of the order of the Tribunal in O.A.104/96. The disciplinary proceedings initiated against the applicant which was dropped, had no bearing on the appointment of Shri C.O. Davis, which was made after a due process of selection in accordance with the directions contained in the order of the Tribunal in O.A.104/96. If the applicant had a claim for placement in a list for giving alternate appointment which would be valid for a period of one year, the applicant should have put forth that claim when his services were terminated. He did not do that. Therefore, after the lapse of one year the applicant did not have a valid and subsisting cause of action. The application which is devoid of merit is dismissed, leaving the parties to bear the costs.

Dated the 7th June 2002.

  
T.N.T.NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the order No.CC/2-134/94 dt.15.12.95 of the 3rd respondent.
2. A-2: True copy of the order of the OA before CAT on 6.10.1997.
3. A-3: True copy of the proceeding dt.29.7.1998.
4. A-4: True copy of the letter dt.26.12.1997.
5. A-5: True copy of the judgement in OA 692/93 dt.20.4.93.
6. A-6: True copy of the application dt.1.3.99 submitted by applicant.
7. A-7: True copy of the application submitted by the applicant on 15.10.2001.

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