

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 125 of 1998

Tuesday, this the 29th day of August, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. M.A. Jessy, D/o. M.A. Antony,
Extra Departmental Delivery Agent,
Mulavukad,
Mankuzhythundil House,
Vyttila PO. ...Applicant

By Advocate Mr. M.R. Rajendran Nair

Versus

1. Assistant Superintendent of Post Offices,
Ernakulam Sub Division,
Edappally, Kochi-24
2. Union of India, represented by
Secretary to Government of India,
Department of Posts, New Delhi. ..Respondents

By Advocate Mr. Varghese P. Thomas, ACGSC

The application having been heard on 29th August, 2000,
The Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Counsel for the respondents is absent.

2. The applicant seeks to quash A1 and to direct the respondents to allow her to continue in service.

3. The applicant is working as Extra Departmental Delivery Agent, Mulavukad Post Office. She was served with A1 notice of termination. In pursuance of the same, she submitted A3 representation. The applicant says that A1 is arbitrary and illegal. She also says that there is no administrative reason for termination of service as shown in A1.

4. Respondents resist the OA contending that in accordance with the letter of the Director General, Department of Posts No. 19-23/97-ED&TRG dated 13-11-1997 the authority higher than the appointing authority is vested with the power to review and pass appropriate remedial orders in cases of irregular appointments. The appointment of the applicant was found to be irregular. As such the same was reviewed and the 1st respondent was directed to issue suitable show cause notice to the applicant as per R1(d).

5. A1, the impugned order, is issued under Rule 6 of P&T ED Agents (Conduct and Service) Rules, 1964. It says that for administrative reasons the services of the applicant shall stand terminated with effect from the date of expiry of the period of one month from the date on which the notice is served on her or as the case may be tendered to her. An opportunity is also given to the applicant to submit representation, if any, against A1.

6. In the reply statement it is stated that final action will be taken against the applicant only after hearing her and considering her representation.

7. In R1(c), a copy of the Director General of Posts letter No. 19-23/97-ED&TRG dated 13-11-1997, it is stated thus:

"There is no need to invoke ED Agents (Conduct and Service) Rules, while passing final orders in such cases."

Respondents relying on R1(c) and invoking the ED Agents (Conduct and Service) Rules, A1 the impugned order has been issued.


8. R1(d) also says that representation, if any, received against the memo like A1 should be forwarded to the Senior Superintendent of Post Offices for appropriate further directions as emphasised in para 3 of DG(P) Letter No. 19-23/97-ED&TRG dated 13-11-97.

9. It is the admitted case of both sides that the applicant has submitted a representation and according to the respondents, before the same could be considered the applicant has rushed to the Tribunal.

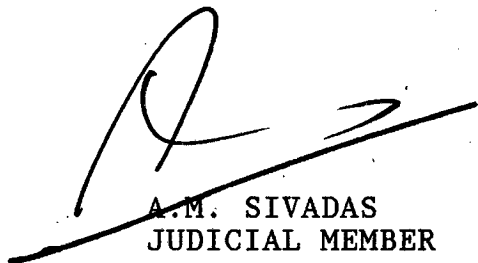
10. As the applicant has already submitted a representation against A1 and the same is pending, the same shall be considered and disposed of by the authority concerned as stated in R1(d) as expeditiously as possible. The services of the applicant shall not be terminated before the disposal of the representation submitted against A1.

11. The Original Application is disposed of as above. No costs.

Tuesday, this the 29th day of August, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to in this Order:

1. A1 True copy of the order No. DA/PR.Das dated 31-12-97 issued by the 1st respondent to the applicant.

2. A3 True copy of the representation dated 7-1-98 submitted by the applicant to the 1st respondent.
3. R1(c) True copy of letter No. 19-23/97-ED&TRG dated 13-11-1997 of Director General of Posts.
4. R1(d) True copy of the directions Memo No. SSP/Con/1-1/97, Office of the Senior Superintendent of Post Offices, Ernakulam Division, Cochin dated 18-12-1997.