

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 131/2000

Wednesday, this the 30th day of May, 2001.

CORAM

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

K.M. Mohammed, S/o Moideenkutty,
Higher Grade Postman,
Tirur Head Post Office, Tirur.
Residing at Kaduparambil House,
Puthenpeedika, Post Neduva,
Parappananagaadi - 676 303

Applicant

By Advocate Mr O.V. Radhakrishnan.

Vs.

1. Superintendent of Post Offices,
Tirur Postal Division, Tirur-4.
2. Postmaster General,
Northern Region, Calicut.
3. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
4. Union of India represented
by the Secretary,
Ministry of Communications,
New Delhi

Respondents

By Advocate Mr T.C. Krishna, Addl.CGSC.

The application having been heard on 30.5.2001, the
Tribunal on the same day delivered the following:

O R D E R

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

Applicant seeks the following reliefs:

- (i) "to call for the records leading to Annexure A7 memo dated 8.9.1999 and PMG (NR) Memo No.CC/7-9/99 dated 31.8.1999 made mention of in Annexure A7 and to set aside the same.
- (ii) to declare that the applicant being not the seniormost or juniormost Selection Grade Postman is not liable to be compulsorily posted as Head Postman, Tirur Head Post Office in the light of Annexure A10 memo dated 24.10.1990 of the 3rd respondent;



- (iii) to issue appropriate direction or order directing the respondents to allow the applicant to continue in the post of Selection Grade Postman at Tirur Head Post Office without regard to Annexure A7 memo dated 8.9.1999.
- (iv) to issue appropriate direction or order directing the respondents 2 & 3 to consider and dispose of Annexure A8 and A9 representations in the light of Annexure A10 expeditiously and at any rate within a time frame that may be fixed by this Hon'ble Tribunal;
- (v) to grant such other reliefs which this Hon'ble Tribunal may deem, fit and proper in the circumstances of the case; and
- (vi) to award cost to the applicant."

2. Applicant is working as Higher Grade Postman at Tirur Head Post Office. He was promoted as Selection Grade Postman as per A1. When he knew that there was a proposal to post him as Head Postman in Tirur Head Post Office, he submitted a representation (A6) to the first respondent expressing his unwillingness to be posted as Head Postman, Tirur Head Post Office. Subsequently as per A7, he has been posted as Head Postman, Tirur Head Post Office. As per A8, he submitted a representation to cancel the posting as Head Postman. A8 has not been disposed of.

3. Respondents resist the O.A. contending that A10 is only an administrative instruction. The instructions contained in A10 were reviewed as per R3 and R4. Applicant was the only TBOP Postman at Tirur Head Post Office and hence he was posted as the Head Postman. There is nothing illegal in posting him as an Head Postman.

4. A7, the impugned order, says that the applicant being the only Higher Grade Postman working at Tirur Head Post Office is posted as Head Postman with immediate effect. Applicant is heavily relying on A10. A10 is the instructions issued by the Chief Postmaster General, Kerala Circle. Learned counsel

appearing for the applicant relying on A10 submitted that the applicant is not the juniormost Postman and therefore, there is no question of compulsorily appointing him as Head Postman irrespective of the fact whether he is willing or not. It is also submitted by the learned counsel for the applicant that the applicant is not the seniormost Postman also.

5. From a reading of A10, it is seen that the posts like Mail/Cash Overseers, Sorting/Head Postman etc. shall not be allowed to remain vacant till such time as the next official gets his promotion under the TBOP Scheme and become eligible to be appointed in the supervisory post. The applicant though says that he is neither the seniormost Postman nor the juniormost Postman that question does not assume importance in this case since it is not disputed that he is the only Higher Grade Postman working in Tirur Head Post Office. Learned counsel for the applicant submitted that the applicant is neither juniormost nor seniormost Postman in the Division. A10 does not say that if in a particular Head Post Office only one higher grade Postman is available, and if he is not willing, he shall not be posted as the Head Postman and the juniormost person in the Division alone should be posted.

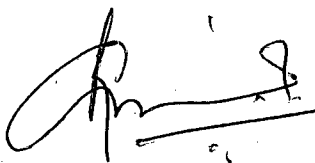
6. It is pertinent to note that A10 is only instructions. Applicant can claim relief only based on an enforceable right. A10 being only instructions, it does not have the force of statutory rules. That being so, the applicant cannot seek to enforce A10 before the Tribunal. Based on A10, the applicant



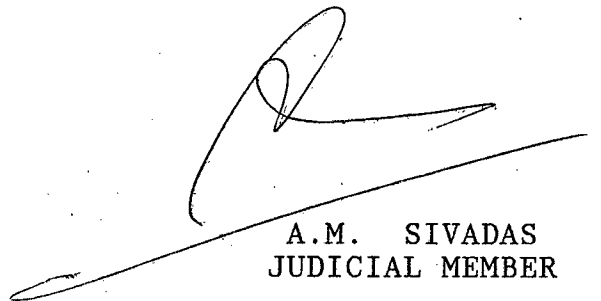
does not get any enforceable right. Hence the arguments based on A10 is to fail.

7. Accordingly, the Original Application is dismissed. No costs.

Dated the 30th of May, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

P.

List of Annexures referred to in this order.

- A-1: True copy of Memo No.B2/TBOP/98 dated 13.1.99 of the 1st respondent.
- A-6 True copy of the representation dated 8.9.99 of the applicant to the 1st respondent.
- A-7 True copy of the Memo No.B2/TFR/03 dated 8.9.99 of the 1st respondent.
- A-8 True copy of the representation dated 15.9.99 of the applicant to the 3rd respondent.
- A-9 True copy of the representation dated 13.12.99 submitted by the applicant before the 2nd respondent.
- A-10 True copy of the Memo No.ST/19/Rlgs/II dated 24.10.1990 of the 3rd respondent.
- R-3 True copy of the letter dated 5.5.2000 issued from the Office of the Chief Postmaster General.
- R-4 True copy of the letter dated 19.11.99 sued from the Office of the Chief Postmaster General.