

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.139/2001

Wednesday this the 7th day of February, 2001.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T.NAYAR, MEMBER (A)

K.G.Gopakumar,
residing at Kodyattettu House,
Paiyvally Bhagam,
Omolloor-6689647. ...Applicant

(By Advocate Shri M.R.Rajendran Nair)

vs.

1. Assistant Superintendent of Post Offices,
Pathanamthitta Sub Division,
Pathanamthitta.
2. The Chief Post Master General, Kerala Circle,
Trivandrum.
3. Union of India, represented by the Secretary to
Government of India,
Ministry of Communications,
New Delhi. ...Respondents

(By Advocate Shri Prasanth Kumar)

The Application having been heard on 7.2.2001, the Tribunal
on the same day delivered the following:

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

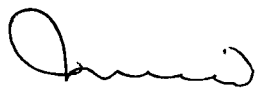
Applicant was, a substitute for K.R.Somasekharan Nair
who was working as Extra Departmental Delivery Agent,
Mathur. When Somasekharan Nair was asked to nominate
another substitute, the applicant along with Somasekharan
Nair approached this Tribunal in O.A.1113/99. This Tribunal
disposed of the said OA with a direction to the respondents
that as long as Somasekharan Nair continues to sponsor the
applicant as his substitute, leave shall be granted to the
present applicant as substitute. It was also made clear
that the substitute will have no independent right for
continuance and that he may continue so long as proposed
by Somasekharan Nair and approved by the department. Now

that Somasekharan Nair has been appointed as Group-D in the Postal Department. A1 order has been issued by the Assistant Superintendent of Post Offices directing the Post Master to relieve the applicant and to engage a suitable outsider at his responsibility till a posting is made by the first respondent. Aggrieved the applicant has filed this application. It is alleged in the application that engagement of an outsider dispensing with the services of the applicant amounts to a pick and choose policy which is opposed to all known principles of law and procedure. With these allegations the applicant has filed this application seeking to quash the impugned order and for a direction to the respondents to permit the applicant to continue as EDDA, Mathur till a regular selection is made in accordance with law.

2. On a careful reading of the application and the annexures appended thereto and on hearing the learned counsel on either side, we do not find that the applicant has any valid cause of action to maintain this application. The applicant was only a substitute of Somasekharan Nair at his risk and responsibility and his right to continue as such, was only till the arrangement continued. Now Sri Somasekharan Nair is no more an ED Agent, he cannot have a substitute and therefore the applicant's relief is unavoidable. The proper direction that can be given by the first respondent is to relieve the applicant and make some stop-gap arrangement till a posting is made. That was exactly what was directed by A1 order. No legal right of

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the applicant has been affected by that. The applicant going by the averment in the application has been already relieved and some other person has been engaged provisionally. We do not find any infirmity in the impugned action and any cause of action for the applicant to approach the Tribunal. The application is therefore rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.



(T.N.T.NAYAR)
MEMBER (A)



(A.V.HARIDASAN)
VICE CHAIRMAN

/njj/

List of Annexures referred to in the Order:

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| 1. | Annexure A1 | True copy of the Memo
No.DA/EDSO/Mathur dt.
13.11.2000 issued by the 1st
Respondent. |
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