

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 145 of 1991
T. A. No.

DATE OF DECISION 11-2-1992

Mr John P George Applicant (s)

Mr AK Chinnan Advocate for the Applicant (s)

Versus

Assistant Superintendent of Post Offices, Quilon South Sub Division &2 others Respondent (s)

Mr AA Abul Hassan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV KRISHNAN, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Ans*
2. To be referred to the Reporter or not ? *Ans*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Ans*
4. To be circulated to all Benches of the Tribunal ? *Ans*

JUDGEMENT

(Hon'ble Shri AV Haridasan, J.M.)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant was appointed as Extra Departmental Sub Postmaster (EDSPM), Veliyam on 30.10.1990 has challenged the order dated 7.11.1990 of the Assistant Superintendent of Post Offices, Quilon terminating his services with immediate effect without assigning any reason. The applicant is a son of Y George who having served as an EDSPM, Veliyam died on 20.8.1990. On a representation at Annexure-B and Annexure-R1(A) made by the applicant and his mother, the Department considered the question of giving compassionate appointment to the applicant and steps in that line were in

progress. Before the question of compassionate appointment was finalised, the first respondent appointed the applicant on a provisional basis as EDSPM from 31.10.1990 to 8.11.1990. But even before this term was completed, the impugned order at Annexure-A was issued, terminating the services of the applicant w.e.f. 7.11.1990. The applicant has challenged this order as violative of principles of natural justice as he has not been given an opportunity to show cause his services should not be terminated. The abrupt termination of the services of the applicant, according to the applicant, violates the provisions of Articles 14 and 16 of the Constitution.

2. The respondents in the reply statement have sought to justify the impugned orders on the ground that the Circle Relaxation Committee, after examining the question of giving employment assistance to the applicant on compassionate ground, had rejected the claim on the ground that the family was not found to be in indigent condition and that as there was no likelihood of the applicant being regularly appointed as EDSPM and as the Circle Relaxation Committee has rejected the case, the provisional appointment was terminated without notice. It has also been stated that in accordance with the instructions of the DG P&T (Annexure-R-1(E)) to terminate the services of an E.D.Agent within 3 years of the appointment, no reason should be stated. But Annexure-R-1(E) is only an instruction issued by the DG,P&T. It has been held that an E.D.Agent in the Postal Department is also holding a civil post. The mandatory provision contained in Article 311(2) of the Constitution cannot be undone or made

by an instruction issued by the DG P&T. Audi alteram partem
is the foundation of rule of law and it is necessary to justify
even an administrative action, if the result of which is of
adverse civil consequence to a person. Therefore, we are not
able to sustain the impugned order at Annexure-A. If for any
reason the respondents found it necessary to terminate the
services of the applicant, they are at liberty to do so after
giving the applicant a reasonable opportunity before/ such an
action.

3. In the result, the impugned order at Annexure-A1 is
quashed. As the applicant has been provisionally appointed to
the post of EDSPM, the respondents are directed to allow him
to continue in that post till a regular selection is made to
mann that post. The right of the applicant to challenge the
decision of the Circle Relaxation Committee that the family is
not an indigent circumstance, warranting compassionate appoint-
ment is left open to be agitated in the proper proceedings and
the termination of the applicant made, in accordance with law.
There is no order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


(NV KRISHNAN)
ADMVE. MEMBER

11-2-1992

trs