

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O.A. No. 159/ 1990  
~~XXXXXX~~

DATE OF DECISION 19.9.90

Rajan P.N Applicant (s)

Mr T.V George Advocate for the Applicant (s)

Versus

Inspector of Post Offices Respondent (s)  
Perumbavoor Sub Division, Perumbavoor and  
5 others

Mr TP M Ibrahim Khan, ACGSC Advocate for the Respondent (s)  
(for R1-3 & 5)

CORAM:

Mr O.V Radhakrishnan (R6)

The Hon'ble Mr. **N.V KRISHNAN, ADMINISTRATIVE MEMBER**

&

The Hon'ble Mr. **N.DHARMADAN, JUDICIAL MEMBER**

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. To be circulated to all Benches of the Tribunal? *no*

JUDGEMENT

(Hon'ble Shri N.Dharmadan, Judicial Member)

The applicant is working as a substitute EDDA at Eramalloor Post Office. According to him he was allowed to work from 4.1.90 when a permanent incumbent of the Post Office proceeded on leave. Subsequently when he resigned on 8.1.90 the applicant started functioning as a provisional EDDA. Thereafter by Annex. A, notification steps were taken for a regular selection and appointment of EDDA in this Post Office. Annex.B is a call letter dated 20.2.90 issued to one Sri Krishnankutty intimating the interview <sup>for regular selection</sup> on 5.3.90. But the applicant was not called for the interview. Hence he filed this application.

2. The applicant submitted that the Senior Superintendent of Post Offices, Alwaye issued Annex.C memo No.81/8/Trg/89-90

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dated 28.5.90 to send four persons including the applicant for training. He has also produced Annex.D by which he was directed to report for training. According to the applicant he was regularly selected and sent for the training. So he is entitled to be regularised as EDDA at Eramalloor Post Office.

3. The respondents 1 to 5 have filed counter affidavit dated 12.6.90 in which they have denied the averments in the original application and submitted that the applicant is continuing only as a substitute from 4.1.90 at his own responsibility. No appointment order was issued to the applicant at any time appointing him either as provisional EDDA or as a regular EDDA. They have also stated that when they had taken steps for regular selection by calling nominations from the Employment Exchange, the applicant's case was also considered, but he was not selected. One Sri Parameswara Sarma was selected as he was having the highest marks in the SSLC. Shri Sarma was impleaded as additional Respondent No.6 in this application.

4. The respondents No.1 to 5 have also filed a further counter affidavit denying the statements given by the applicant in the application filed by him on 18.7.90. Along with the second/<sup>counter</sup> affidavit, they have produced Annexure R2, a proforma of declaration of Group Insurance Scheme, stated to have been produced by the applicant on 24.3.90 in connection with the proposal to introduce

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the Group Insurance Scheme for ED employees. It has been stated in Annexure R2(A) that the date of joining of service of the applicant is 4.1.90. Accordingly, on the basis of this statement in Annex.R2(A), the applicant was permitted for training by issuing Annexure C. According to the Respondents 1 to 5, the applicant was also sent for training. <sup>But by</sup> his name was included by mistake and he should not have been given such training as he was not a regularly appointed EDDA. However this letter was not cancelled.

5. We have heard the arguments of the learned counsel on either sides. The learned counsel for the applicant vehemently submitted that since he has been sent for training as if he has been regularly selected, he is entitled to be preferred for appointment and the Respondents 1 to 5 is estopped from making appointment of respondent 6 as a regular candidate. He has also submitted <sup>with the statement</sup> ~~the fact~~ that the applicant was sent for training only by a mistake, cannot be accepted because it was not indicated in the counter affidavit dated 12.6.90 by Respondents 1 to 5. Only when the applicant has produced Annexures C & D along with the replication dated 18.7.90, the respondents 1 to 5 came with a case of having deputed the applicant by a mistake. Hence, according to the applicant the case that it is only a mistake is an after-thought <sup>set up</sup> ~~though intended~~ to defeat the legal right of the applicant.

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insurance  
scheme

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6. After hearing the matter, we have called for the entire records dealing with the selection as also the records relating to the <sup>deputation in connection with the</sup> introduction of Group Insurance Scheme for ED employees. On a careful perusal of the records, we have satisfied that the selection process and the deputation for training are being dealt with by separate officials and the fact of mistaken deputation for training of the applicant could not be included in the earlier counter because of the failure of the concerned officer to inform full details to the learned Govt. counsel. However, the fact remains that Respondents 1 to 5 have conducted a regular selection after duly inviting candidates through the Employment Exchange. In that selection, the applicant's claim for selection was also considered along with nine others and the 6th respondent was found to be a better qualified person and accordingly he has been selected. The result was brought to our notice today during the course of the arguments. Since the selection was found to be regularly done by Respondents 1 to 5, we think there is no scope for interference in this matter and we are unable to accept the contention raised by the applicant relying on the principle of estoppel.

7. Under the above circumstances we find no merit in this application and it is only to be dismissed. Accordingly we do so. There will be no order as to costs.

  
(N. DHARMADAN)  
JUDICIAL MEMBER

19.9.90

  
(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A. 7/91 in

O.A. No. 159/90

~~O.A. No.~~

189

DATE OF DECISION 7.8.91

P N Rajan

Review Applicant (s)

A. K. Chinnan

Review  
Advocate for the Applicant (s)

Versus

Inspector of Post Offices, Respondent (s)  
Perumbavoor Sub Division, Perumbavoor and others

Mr. AA Abul Hassan, ACGSC for R 1-3 & 5  
Mr. O V Radhakrishnan for R.6 Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
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4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

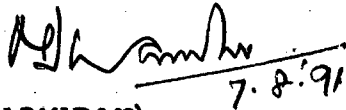
MR. N. DHARMADAN, JUDICIAL MEMBER

This is a review application filed by the original applicant in the O.A. for reviewing the judgment and ~~for~~ rehearing the case.

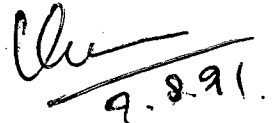
2. The learned counsel appearing on behalf of the review applicant submitted that the applicant's rights under the I.D. Act were not considered while passing the judgment in the O.A. 159/90 on 19.9.90. We have made it clear that the legality of the regular selection of the EDDA, Eramallloor Post Office was the only aspect considered

in the judgment. The rights of the applicant under the I.D. Act were neither presented for consideration nor dealt with by us in the order. If any right is available to the applicant under the I.D. Act, it is for him to pursue the same separately. This <sup>judgment by</sup> order will not stand in the way. Hence there is no ground for review. <sup>by</sup>

The Review Application is disposed of as above.

  
7.8.91

(N. DHARMADAN)  
JUDICIAL MEMBER

  
9.8.91

(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

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