

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 161 of 2000

Tuesday, this the 15th day of February, 2000

CORAM

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

1. Babu K.S.,
S/o Sankaran,
Kannankerithara House,
VMC Ward No.7, Vaikom PO,
Presently working as Water Carrier,
Head Post Office, Vaikom. .. Applicant

By Advocate Mr. C.J. Joy.

Vs.

1. Union of India represented by
the Secretary,
Department of Posts and Telegraphs,
New Delhi.
2. The Superintendent of Post Offices,
Kottayam.
3. The Post Master,
Head Post Office, Vaikom.
4. Basheer, S/o Abdulla,
Valloothara House,
VMC, Ward No.III, Vaikom PO. .. Respondents

By Advocate Mr. R. Madanan Pillai

The application having been heard on 15th February 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks the following reliefs:-

- (i) Issue an order quashing the decision, if any,
taken or order if any, taken or order, if any,
issued by Respondents 2 and/or 3 to appoint the
4th Respondent as Sweeper of the First Floor of
the Head Post Office, Vaikom;


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- (ii) Declare that the vacancy of Sweeper of the First Floor of the Head Post Office, Vaikom caused by the termination of Smt. Parukutty, is to be filled up from among the existing congingency workers strictly in accordance with seniority; and
- (iii) Issue a direction commanding Respondents 2 and 3 to dispose of Annex. A1 on merits before formally filling the vacancy of Sweeper of First Floor of Head Post Office, Vaikom.

2. The applicant says that he has been working as Water Carrier in the Vaikom Head Post Office under the 3rd respondent for the past two decades. One Parukutty, Sweeper of the First Floor has become incapable of doing the work due to old-age and her services were expected to be terminated by the end of the year 1999. Applicant being the seniormost and getting the lowest pay among the remaining contingency employees was entitled to be appointed to the vacancy that was to arise upon the termination of the services of said Parukutty. On 3.1.2000 said Parukutty was relieved from the post of Sweeper and the 4th respondent was deputed to the said post overlooking the seniority and better claims of the applicant. He submitted A1 representation. 4th respondent is given the posting without disposing of A1. The 4th respondent is being engaged unofficially to gauge if anybody comes up with any claim or objection. The applicant has got every right under equity and law to be considered for better post that has arisen under the 3rd respondent. Respondents 2 and 3 should be directed to consider and dispose of A1 representation on merits. Appointment to the post of Sweeper

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has to be based on seniority from among the existing contingency workers.

3. According to the applicant, he being the seniormost and getting the lowest pay among the remaining contingency employees is entitled to be appointed to the vacancy that has arisen due to the termination of the services of one Parukutty. We asked the learned counsel appearing for the applicant what is the legal basis for the same. He could not enlighten us.

4. Though the applicant says that the 4th respondent was deputed to the post of Sweeper, who has deputed is not stated in the OA.


5. According to the applicant, he has got every right under equity and law.

6. If the applicant claims any right based on law, what is that law should be stated clearly. It is not stated. There is absolutely no legal basis stated in respect of the claim put forward by the applicant. If he claims on equitable grounds, the Tribunal cannot grant any relief based on equitable considerations.

7. From the first prayer, it is clearly seen that it is imaginary. No relief could be granted in respect of imaginary or fictitious matters.

8. The applicant wants respondents 2 and 3 to dispose of A1. Under what authority both of them can be directed simultaneously to dispose of one representation is not known.

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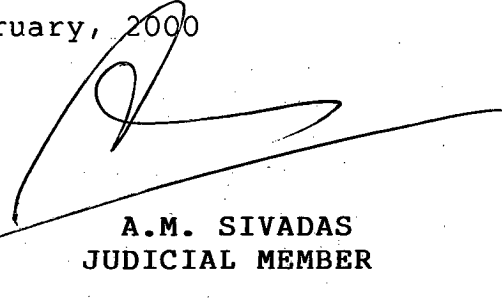
9. We do not find any ground to admit the Original Application.

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

Tuesday, this the 15th day of February, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to:

1. Annexure A1 - True copy of the representation dated 11.10.99 submitted by the applicant before the 2nd respondent.