

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. 16 /1990

DATE OF DECISION: 12.7.91

**K. V. Manmadhan Nair** .....Applicant

**Mr. N. Sugathan** .....Advocate for applicant

**Chairman, Telecom Commission, N. Delhi** Respondents  
and others

**Mr. N N Sugunapalan for R.1 & .2** .....Advocate for  
**Mr. P K Madhusoodhanan for R-4** Respondents  
**Mr. M. V. Joseph for R-3**

CORAM:

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

&

The Hon'ble Shri N. DHARMADAN, JUDICIAL MEMBER

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

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

This case is heard along with O.A. 1058/90 on consent of parties since the question of law, facts and reliefs prayed for in both cases are identical in nature.

2. We have considered the matter in detail in our judgment in O.A. 1058/90 and that decision need only be followed in this case and dispose of it with

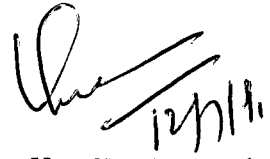
same directions. Accordingly, we follow the judgment in O.A. 1058/90 in this case and dispose of the case with the following directions:

- a) The impugned order, in so far as it transfers the applicant on promotion to TES Group-B from Kerala Circle to another Circle, is quashed. The Respondents will be at liberty to fill <sup>up</sup> the vacancy so caused in the other Circle in any manner they like and in such an event, the applicant will not have any claim against that appointee for seniority or other benefits;
- b) The Respondents are directed to consider posting the applicant in a Group B post in Kerala Circle itself within a period of one year from the date of this order;
- c) In making such posting, the Respondents shall consider the case of the applicant along with other similarly placed persons who have also filed similar applications as also 18 Group-B officers mentioned in Annexure-I to the Statement dated 29th May, 1991 filed by the Respondents, working outside Kerala who have requested for a transfer to Kerala Circle and consider their posting in Kerala Circle on the same principles as have been adopted in the Annexure-III order;

- d) Postings of other persons to TES Group-B posts in Kerala Circle may be considered after exhausting the posting of the applicants and others referred to in (c) supra;
- e) If the applicant does not get a posting on a Group B post in Kerala Circle on the above terms within one year from today, the promotion granted to him by Annexure-III order will automatically stand cancelled on the expiry of one year from today and thereafter, his case for promotion will be considered along with others who are eligible to be considered for promotion to TES Group-B vacancies that may arise thereafter.

3. The Original Application is disposed of with the above directions without any order as to costs. A copy of judgment in O.A. 1058/90 is enclosed for reference.

  
(N. DHARMADAN)  
JUDICIAL MEMBER

  
(N. V. KRISHNAN)  
ADMINISTRATIVE MEMBER

KMN

PSHM & ND

(24) Mr Sugathan  
SCGSC for respondents

Learned counsel for the respondents submitted that a statement is being filed to-day, copy of which will be served on the learned counsel for the applicant. List the CCP on 29.7.92 for hearing and final disposal.

ND

PSHM

23.7.92

(40)

29.7.92

PSHM DVD

Mr Sugathan  
SCGSC by Pms.

Learned counsel for respondents seeks some time to verify the statement in the rejoinder about the vacancies of ITS group B in Kerala Circle. Post for final hearing on 20.8.92

(ND)  
12/8

(PSHM)  
12/8

Rejoinder filed  
on 7-8-92

CCP 79/92

-2-

PSHM & ND

Mr N Sugathan  
SCGSC by proxy

It is submitted on behalf of Mr NN Sugunapalan that there is change of counsel for the respondents. Accordingly, post on 21.9.92. In the meanwhile, revised Vakalat should be filed.

ND

20.8.92

PSHM

PSHM & ND

(26)

Mr N. Sugathan  
SCGSC by Proxy

Learned Counsel for the respondent prays for time to file additional reply. Granted. Post on 28/9/92. No further adjt. will be granted.

ND

PSHM

21/9/92

PSHM & ND

(19)

Mr N Sugathan  
SCGSC by proxy

Learned counsel for the applicant prays for time to get copy of the judgment in similar matter (OA 1058/90) rendered by the Supreme Court. Post on 19.10.92.

ND

PSHM

28.9.92

IS-co-92 List A/W CP(c) 6442  
(32) on 20-10-92

(AvH)

(JPM)

Replies to Repocdr  
filed - 21/9/92  
2

28/9

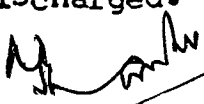
SPM & ND

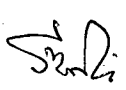
Mr. N. Sugathan  
Mr. George C. P. Tharakan, SCGSC

Today when the CCP was taken for hearing, learned counsel for the petitioners submitted before us that in view of the judgment of the Supreme Court in Civil Appeal No. 3993 of 1992 (SLP (Civil) No. 17008 of 91) the petitioners may be given permission to withdraw the CCP reserving their liberty to approach appropriate forum in case the respondents do not implement the observations contained in the last paragraph of the judgment of the Supreme Court in letter and spirit.

2. Having heard counsel on both sides, we are of the view that this request can be allowed. Accordingly, we close the CCP as having withdrawn reserving the liberty of the petitioners to approach appropriate forum in case they are aggrieved by the implementation of the judgment of the Supreme Court referred to above.

3. The CCP is closed as above and the notice on Contempt is discharged.

  
(N. Dharmadan)  
Judicial Member

  
(S.P. Mukerji)  
Vice Chairman

20.10.92

DO  
17/22/10/92  
MKRM  
order communicated  
on 23/10/92  
HS