

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 180 of 1991
T. A. No.

DATE OF DECISION 30-3-1992

D Sekhara Sarma _____ Applicant (s)

M/s PS Biju &
CS Ramanathan _____ Advocate for the Applicant (s)

Versus

Chief Post Master General, Kerala Circle, Trivandrum & 2 others Respondent (s)

Mr K Prabhakaran, ACGSC _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. PS HABEEB MOHAMED, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *72*
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

(Mr AV Haridasan, Judicial Member)

The applicant is an Assistant Superintendent of Post Offices. In the DPC held on 23.3.1989 he was cleared for promotion as HSG-I. Pursuant to the recommendations of the DPC, the applicant was posted as Postmaster, Alleppey by order dated 15.2.1990 at Annexure-A1. As two daughters to the applicants were studying in College in Trivandrum and on account of other domestic circumstances the applicant felt that his change of residence ~~xxxx~~ from ~~to~~ Trivandrum to Alleppey could not be congenial/his family life and therefore he made a representation, copy of which is at Annexure-A2 to the respondent No.2 requesting that he may be given a posting as Deputy Post Master, Kottayam. As the applicant did not receive

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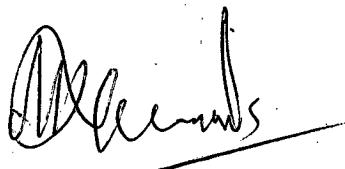
..2...

a reply to this representation, he made a further representation to the Chief PMG, Kerala on 2.3.1990, a copy of which is at Annexure-A4. In this representation, the applicant has stated that in case it was found not feasible to give him a posting at all at Trivandrum or in Kottayam, it may be taken that he has declined promotion as HSG for the time being. When a post of Postmaster, Thycaud arose in the year 1991, the applicant made a representation claiming appointment to the post. The first representation made by him in this regard was on 10.9.1990. He submitted further representations. In response to these representations, the Chief PMG held that the applicant is not entitled to be promoted till March 1991. It is impugning this order, the applicant has filed this application. It has been averred in the application that the vacancy at Alleppey which the applicant did not accept being only a short term vacancy, the order of the Chief PMG to debar him from promotion for a period of one year is not justified in view of the instructions on the subject contained in letter No.35/3/66-SPB.II dated 18.11.1967 addressed to all Heads of Circles by the DG P&T(Annexure-A11).

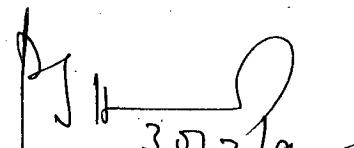
2. The respondents have filed a reply statement opposing the prayer in the application. It has been contended that since the applicant has refused to accept the promotion, he was rightly debarred from promotion for a period of one year i.e. till 31st March 1991.

3. Now that period mentioned in Annexure-A10 is over and since the applicant would be satisfied if a direction is given

to consider his promotion towards the first vacancy which arose after 31st March 1991, we need not go into the validity of the impugned order at Annexure-A10. Since subsequent events can be taken note of for the purpose of dispensing substantial justice, we are of the view that the application can now be disposed of with a direction to the respondents to consider the applicant for promotion to HSG-I, to the first vacancy which arose after 31.3.1991 and to promote him to that post with effect from the date on which the vacancy arose with all consequential benefits including arrears of pay, if he is otherwise not found unsuitable. It is ordered accordingly. Action on the above lines should be complied with within a period of two months from the date of receipt of this order. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER



(PS HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

30-3-1992

trs