

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.191/99

Monday this the 6th day of August, 2001.

CORAM

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

S.Sunithakumari
W/o Sajeew
Extra Departmental mail Carrier (formerly)
Moonnumukku Branch Office
Residing at Sunitha Bhavan
Karavaram P.O.
Kallambalam.

Applicant.

[By advocate Mr.Sasidharan Chempazhanthiyil]

Versus

1. Sub Postmaster
Pangode
Thiruvananthapuram.
2. Assistant Superintendent of Post Offices
Central Sub Division
Thiruvananthapuram.
3. Assistant Superintendent of Post Offices(OS)
Office of the Senior Superintendent of Post Offices
Thiruvananthapuram North
Thiruvananthapuram.
4. Senior Superintendent of Post Offices
North Division
Thiruvananthapuram.
5. Chief Postmaster General
Kerala Circle
Thiruvananthapuram.
6. Union of India rep. by its Secretary
Ministry of Communication
New Delhi.

Respondents

[By advocate Mr. C.Rajendran, SCGSC]

The application having been heard on 6th August, 2001,
the Tribunal on the same day delivered the following:


O R D E R

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

Applicant seeks to quash A-5, A-7 and A-12, to declare
the she is entitled to be reinstated and to direct the
respondents to take action accordingly.

2. Applicant was appointed as Extra Departmental Mail Career, Moonnumukku on 12.8.92. She could not work as EDMC of this particular post office without compromising her interest and opportunities in the Volleyball team of the Postal Circle. She sought a change of office. That was not favoured with. She was served with a charge memorandum. 3rd respondent made an enquiry and reached a finding against the applicant on the basis of her alleged admission that she absented from duty as per A-4. As per A-5 she was removed from service. Her appeal was rejected as per A-7. As per A-12 review application was also dismissed.

3. Respondents resist the OA contending that candidates selected under sports quota are expected to participate in the sports events. But that does not confer any right on them for being appointed in city offices only. Pre-meet camps are conducted in connection with tournaments organized in various places for which sports candidates are relieved from their duty well in advance to enable them to participate in the events without any difficulty. After appointment she worked in the post office only for 10 days intermittently and thereafter unauthorisedly absented from duty. It was nothing short of sheer dereliction of duties. She was unauthorisedly absent from duty for more than 300 days without submitting any application for leave. She was proceeded against under Rule 8 of ED Agents (Conduct & Service) Rules 1964. She admitted the charges in writing before the Inquiring Authority on 15.6.95.. There is no provision to avail leave exceeding 180 days by an ED Agent either by nominating a substitute or otherwise.



applicant. So the position is that R4(b) contains the signature of the applicant.

5. In ground 5 (a) it is stated thus:

"It is a case of no evidence since no enquiry was conducted by the Enquiry Officer who prepared the report".

6. Here it is a case where applicant has in clear terms admitted the charges as per R4(b). In R-4 (b) it is stated thus:


"The statement of articles of charges Annexures I, II, III and IV (copy of which are with me also) has been read over to me and detailed in Malayalam also by the Inquiring Authority. I have understood the charges fully well. I admit all the charges completely".

7. So it is a complete and total admission of all the charges by the applicant. In such a case, it is something very strange and curious that the applicant says that no enquiry was conducted. When the applicant has admitted the charges, there is no necessity for an enquiry.

8. In ground (f), it is stated thus:

"The enquiry was not in accordance with law".

9. One moment applicant says that there was no enquiry conducted and next moment she says that the enquiry was not in accordance with law. It cannot be like that. This shows that the applicant has got absolutely no consistent case.



10. From R-4(b) it is clear that the applicant has admitted the charges in toto. That being so, there is no necessity for an enquiry. In that context, the grounds raised that there was no enquiry conducted and that the enquiry was not in accordance with law cannot be accepted.

11. Learned counsel appearing for the applicant submitted that the punishment awarded is too harsh. It is well settled that Tribunal or Court will interfere with punishment only if it shocks the conscience of the Tribunal or Court. The fact here remains that the applicant hardly worked for 10 days and thereafter for 300 days she remained unauthorisedly absent. From A-4 it is clearly seen that reminders were repeatedly sent to her by the authority concerned to rejoin duty. She did not turn up. So it is a case where the Department has shown maximum leniency possible to the applicant and with all that the applicant felt more happy to be absent unauthorisedly. With such a person, it will be very difficult for the Administration to pull on. Wheels of administration should run smooth. In such case, it can never be said that the penalty awarded is one shocking the conscience of the Tribunal

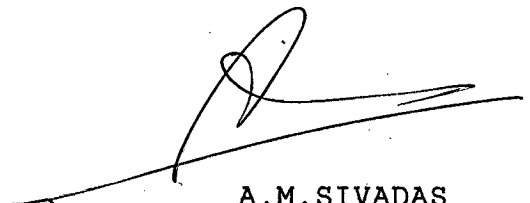
Accordingly OA is dismissed.

Dated 7th August, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.



A.M. SIVADAS
JUDICIAL MEMBER

Annexures referred to in this order:

- A-5 True copy of the Memo No.OS/ADA/3/94-95 dated 18.9.95 issued by the 3rd respondent.
- A-7 True copy of the order No.B/AP/4/96 dated 7.12.96 issued by the 4th respondent.
- A-12 True copy of the order No.ST/E-1/97 dated 2.5.97 issued by the 5th respondent.
- A-4 True copy of the Enquiry Report dated 19.6.95 issued by the 4th respondent.
- R4(b) Photocopy of the statement dated 15.6.95 issued by S.Sunithakumari, EDMC Moonnumukku.