

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 203 of 2001

Tuesday, this the 20th day of March, 2001

CORAM

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

1. R. Karunakaran,
Temporary Status Group D (Retd.),
Railway Mail Service 'TV' Division,
Head Record Office, Thiruvananthapuram,
S/o P. raghavan, residing at
Mariyapuram, Neyyattinkara.
2. N. Krishnan Nair,
Temporary Status Group D (Retd.),
Railway Mail Service 'TV' Division,
Thiruvananthapuram,
S/o Narayana Pillai, residing at
Anthiyoorkonam, Kollade PO,
Malayinkil.

....Applicants

[By Advocate Mr. G. Sasidharan Chempazhanthiyil (rep.)]

Versus

1. Senior Superintendent of Railway
Mail Service, T.V. Division,
Thiruvananthapuram.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Director General,
Postal Department, New Delhi.
4. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.

....Respondents

[By Advocate Mr. S.K. Balachandran, ACGSC]

The application having been heard on 20-3-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

Applicants seek to quash A6 and A4 to the extent it denies leave encashment to them and to declare that they are entitled to be paid leave encashment as in the case of temporary Group D employees.

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2. Applicants were working as casual labourers under the 1st respondent from 6-2-1963 and 12-6-1978 respectively. They were conferred with temporary status with effect from 29-11-1989. They were declared as temporary Government servants on 28-11-1992. The 1st applicant retired on superannuation on 30-4-1998 and the 2nd applicant on 30-6-1997. The 2nd applicant immediately after his retirement submitted a representation for leave encashment. His claim was rejected as per A6. Aggrieved by the same, he filed OA 578/98. The same was withdrawn to take up the matter with departmental authorities. He submitted representation to the 3rd and 4th respondents on 20-4-1999. The 1st applicant in the meanwhile retired from service also sent a representation to the 3rd and 4th respondents on 20-4-1999. So far no reply has been received from the respondents.

3. When the OA was taken up, the learned counsel appearing for the applicants submitted that the relief to quash A4 to the extent it denies leave encashment to the applicant is not pressed.

4. Applicants seek to quash A6. A6 is the order dated 5-3-1998 issued by the 1st respondent. It is addressed to the applicants' counsel in response to the notice issued by the counsel on behalf of the 2nd applicant.

5. As far as the 1st applicant is concerned, he is a stranger to A6. It is not known what is the right of the 1st applicant to challenge A6 when it is not issued to him at all.

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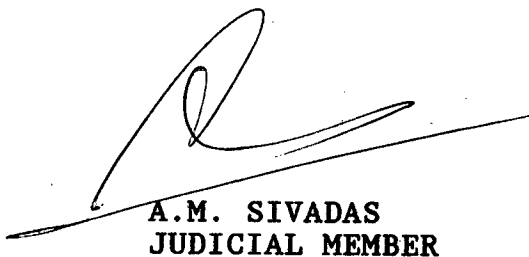


6. In A6 it is stated that the Chief Postmaster General, Kerala Circle vide letter dated 25-2-1998 has intimated that as per the communication received from DG Posts, New Delhi letter No. 37-5-98-SPB I dated 5-2-1998, leave encashment facility is not available to temporary status casual labourers. So, A6 is based on the letter of DG Posts bearing No. 37-5-98-SPB I dated 5-2-1998. That letter is not under challenge. Without quashing that letter of DG Posts, A6 cannot be quashed. So, for quashing A6 it is a prerequisite to quash the said letter of DG Posts. That letter of DG Posts cannot be quashed for the reason that it is not sought to be quashed. That being the position, A6 cannot be quashed.

7. The second relief sought is consequential to the quashing of A6 and as A6 cannot be quashed, the applicant is not entitled to the consequential reliefs.

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

Tuesday, this the 20th day of March, 2001



A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexure referred to in this order:

1. A4 True copy of the order No. 66-9/91-SPB-I dated 30-11-1992.
2. A6 True copy of the letter No. PEN-256/RMS 'TV' dated 5-3-1998 of the 1st respondent.