

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
~~XXXXXX~~

204 of 1992

DATE OF DECISION 12.2.1992

P.Somasundaran Applicant (s)

Mr.M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Inspector of Post Offices Respondent (s)  
Kayamkulam Sub Division  
Kayamkulam.

Mr.TPM Ibrahim Khan through Advocate for the Respondent (s)  
Mr.Shefiq-for respondent.

CORAM :

The Hon'ble Mr. S.P.Mukerji - Vice Chairman  
and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Sp*
2. To be referred to the Reporter or not? *Me*
3. Whether their Lordships wish to see the fair copy of the Judgement? *me*
4. To be circulated to all Benches of the Tribunal? *me*

JUDGEMENT

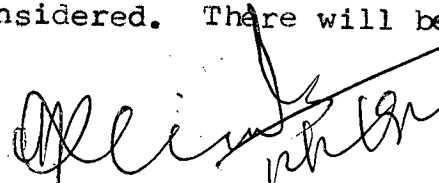
(Hon'ble Shri A.V. Haridasan, Judicial Member)

The applicant was inducted as a substitute E.D.Mail Career with effect from 4.11.1991 by one Shri Surendran who was holding that post on a regular basis. This substitute arrangement was made by Shri Surendran being provisionally appointed as an EDDA at Mannarassala. The applicant has now filed this application under Section 19 of the Administrative Tribunals Act for a declaration that he is entitled to regular appointment as E.D.Mail Career, Payippad and for a direction to the respondent to consider him for such appointment granting weightage for his past service and also for a direction that his services shall not be terminated until a regular recruitment is made in accordance with law.

2. The respondent, Sub Divisional Inspector of Post Offices has today filed a statement in which it is stated that the post of EDMC, Payippad has not become vacant for making a regular selection, that Shri Surendran is on leave and is provisionally put in charge of the post of EDDA until a regular incumbent is posted in that post and that as the applicant is only a substitute of Shri Surendran whose leave as per the leave application expires on 15.2.92, he is likely to come back on 15.2.1992. Therefore, the respondent prays that the applicant has no legitimate cause of action to be adjudicated <sup>upon</sup> and decided and that the <sup>the</sup> application does not merit admission and consideration.

3. We have heard the learned counsel on either side. The prayer in this original application is that it should be declared that the applicant is entitled to be considered for regular appointment to the post of EDMC, Payippad and for a direction to respondent for considering him for such selection and also that his services shall not be terminated otherwise <sup>than</sup> by appointment <sup>for appointment</sup> of a regularly selected candidate. For a consideration <sup>to</sup> to arise a post should fall vacant. As stated by the respondent the post on which Shri Surendran holds a <sup>against which</sup> lien and <sup>the</sup> the applicant is working as substitute is still held by Shri Surendran and has not become vacant. Only when the post becomes vacant the department will be initiating steps for regular selection of a candidate. Therefore, the claim of the applicant that he is entitled to be considered for selection at this stage is premature and does not deserve any consideration. The further claim

of the applicant that there should be a direction to the respondent that his services should not be terminated unless and until a regularly selected EDMC joins also cannot be granted because his continuance in the post at the moment depends solely on the decision of Shri Surendran whether to continue him as his substitute or not because even now he is a substitute of Shri Surendran. Therefore, we do not find any legitimate grievance for the applicant for being considered and adjudicated. We therefore, reject this application under Section 19(3) of the Administrative Tribunals Act. The learned counsel for the applicant submitted that the respondent has stated that Shri Surendran would be coming back on 15.2.92 only for the purpose of denying an opportunity to the applicant for being considered for regular selection. If and when a regular selection is proposed and steps initiated in that regard, it may be open for the applicant to offer himself as a candidate and approach appropriate legal forum in case his candidature is not properly considered. There will be no order as to costs.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER

  
(S.P. MUKERJI)  
VICE CHAIRMAN

12.2.92

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