

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.222/97

Tuesday, this the 21st day of September, 1999.

CORAM:

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

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

N.R.Rajesh,
Extra Departmental Mail Carrier,
Cheruvattoor Branch Office,
Kothamangalam Sub Office,
Perumbavoor Sub Division,
Aluva Division.

- Applicant

By Advocate Mr O.V.Radhakrishnan

Vs

1. Senior Superintendent of Post Offices,
Aluva Division,
Aluva.

2. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

3. Director General of Posts,
Department of Posts,
New Delhi.

4. Union of India represented by
its Secretary,
Ministry of Communications,
New Delhi.

- Respondents

By Advocate Mr P.R.Ramachandra Menon, ACGSC

The application having been heard on 21.9.99, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to quash A-4, A-5 and A-9 to the extent these orders reduce the allowances attached to the post of Extra Department Mail Carrier(EDMC for short), Cheruvattoor from Rs.420 plus D.A. to Rs.332.50 plus D.A. and to direct the

1st respondent to grant the applicant the allowances at the rate of Rs.420 plus D.A. from the date of his initial appointment in view of A-3, A-6 and A-8 and disburse the same with the interest at 18% per annum.

2. The applicant was appointed as EDMC, Cheruvattoor as per A-1 dated 7.1.94 with effect from 29.1.94. A-2 deals with the calculation of the allowances based on cycle beat and grant of cycle allowance. Allowances attached to the post of EDMC, Cheruvattoor calculated on the basis of the foot beat were fixed at Rs.420 plus D.A. Emoluments of EDDA were reduced as a result of faulty review. The 3rd respondent considering this aspect as per A-3 dated 23.3.90 ordered that no reduction may be carried out until further orders. The 1st respondent ignoring A-3 and relying on A-2 has reduced the allowance attached to EDMC, Cheruvattoor to Rs.332.50 as per A-4 dated 6.3.92. The 2nd respondent had issued direction as per A-6 dated 16.3.95 stating that as far as the ED Agents appointed during the period from 5.1.88 to 31.7.94, reduction in allowance already ordered should not be given effect to till the matter is finally decided. The applicant being one falling in that group submitted A-7 representation to the 1st respondent and the request of the applicant has been turned down as per A-9. As per A-8, Heads of Postal Circles have been directed to give suitable instructions to all Divisional Superintendents and concerned officers of the department not to effect reduction of allowance of ED Agents.

3. Respondents in the reply statement contend that there is no reduction in the allowance payable/paid to the applicant. He is being paid at the rate of Rs.332.50 based on the norms prescribed by the 3rd respondent. A-4 and A-5 cannot be termed as illegal or arbitrary. Respondents have reiterated the need for affecting refixed allowance when there is a regular change in the incumbancy.

4. The applicant was appointed as EDMC, Cheruvattoor as per A-1 dated 7.1.94 with effect from 29.1.94. From A-4 it is seen that as far as EDMC, Cheruvattoor is concerned, present allowance is Rs.420, allowance justified on cycleable track is Rs.332.50 and protected allowance is Rs.420. A-4 is dated 6.3.92. The question of protected allowance does not apply in the case of the applicant. He claims that he is entitled to Rs.420 plus D.A. as the same is the present allowance. Respondents contend that on the basis of conversion of foot beat to cycleable, the applicant is entitled to only Rs.332.50 plus allowances. Respondents are relying on R-1. R-1 is the copy of the letter dated 9.9.96 issued by the Chief PMG, Trivandrum. It gives a clarification and it is also clarified with regard to the clarification that the Directorate's instruction dated 22.3.96 will apply only in cases where the reduction became necessary at the time of quinquennial/biennial revision. Since there is no question of quinquennial/biennial revision in the case of the applicant, R-1 has no application to the facts of the case at hand. As per A-5 dated 4.8.94 with regard to the EDMC of Cheruvattoor, the allowance was fixed at Rs.332.50 per month. As per A-9, the applicant's request for allowance at the rate of Rs.420 per month was rejected.

5. A-4, A-5 and A-9 the impugned orders are issued by the Senior Superintendent of Post Offices, Alwaye. A-3 is issued by the third respondent, the Director General of Posts, New Delhi. There it is stated that cases where review has been carried out and reduction in allowance has been contemplated but has not been actually carried out, may be reported separately and no reduction may be carried out until further orders in such cases. A-6 issued by the Chief PMG, Kerala Circle, Trivandrum says that the reduction in allowance already ordered in the case of ED Agents appointed during the period from 5.1.88 to 31.7.94, should not

be given effect until the case is finally decided. The applicant falls in the group of ED Agents who have been appointed between the period 5.1.88 to 31.7.94. So in the light of A-6, as long as a final decision is not taken, ED Agents who were appointed during the said period are to be given the allowance that was paid earlier calculated on the basis of foot beat. A-8 dated 22.3.96 issued by the third respondent says that all the Heads of Postal Circles are again requested not to reduce the allowance of ED Agents under any circumstance and suitable instructions may be given to all Divisional Superintendents and concerned officers of the department. A-8 was issued because of the fact that A-3 was not complied with. A-3, A-6 and A-8 are issued by the authorities who are above in cadre to the authority who has issued the impugned orders. As admittedly from A-4, it is seen that the present allowance is Rs.420 and on conversion of foot beat to cycleable track it is reduced to Rs.332.50 per month. How this reduced rate of Rs.332.50 alone can be paid to an incumbent like the applicant in the light of A-3, A-6 and A-8 is not known. Payment at the rate of Rs.332.50 per month as per A-4 and A-5 is not in tune with what is contained in A-3, A-6 and A-8. It could be done if there is a final decision taken by the authority concerned. There is no case for the department that such a final decision has been taken. So the position now is that A-4, A-5 and A-9 are not in tune and conformity with A-3, A-6 and A-8 and that being so, A-4, A-5 and A-9 are liable to be quashed to the extent those reduce the allowances attached to the post of EDMC, Cheruvattoor from Rs.420 plus D.A. to Rs.332.50 plus D.A. per month. It follows that the applicant is entitled to allowances at the rate of Rs.420 plus D.A. from the date of his appointment in the light of A-3, A-6 and A-8.

6. Accordingly, the O.A. is allowed. A-4, A-5 and A-9 are quashed to the extent those reduce the allowances attached to the

post of EDMC, Cheruvattoor from Rs.420 plus D.A. to Rs.332.50 plus D.A. The 1st respondent is directed to grant the applicant the allowances at the rate of Rs.420 plus D.A. per month from the date of his initial appointment and disburse the arrears within three months from the date of receipt of a copy of this order. No costs.

Dated, the 21st of September, 1999.

Q.L.N.
(J.L.NEGI)
ADMINISTRATIVE MEMBER

A.M.SIVADAS
(A.M.SIVADAS)
JUDICIAL MEMBER

trs/21999

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-1:

True copy of the appointment order dated 7.1.94 of the Sub Divisional Inspector (Postal), Perumbavoor.

2. Annexure A-3:

True copy of the letter No.14-46-89/PAP dated 23.3.90 of the 3rd respondent.

3. Annexure A-4:

True copy of the letter No.A/2-4/87/II dated 6.3.92 of the 1st respondent.

4. Annexure A-5:

True copy of the letter No.A/2-4/94 dated 4.8.94 of the 1st respondent.

5. Annexure A-6:

True copy of the letter No.EST/66/Rlgs/90 dated 16.3.95 of the 2nd respondent.

6. Annexure A-7:

True copy of the representation dated 25.5.96 of the applicant to the 1st respondent.

7. Annexure A-8:

True copy of the letter No.14-46/89-PAP (Pt) dated 22.3.96 of the 4th respondent.

8. Annexure A-9:

True copy of the letter No.A/24/87 dated 5.9.96 of the 1st respondent.

9. Annexure R-1:

True copy of the letter No.EST/68-2/88 dated 9.9.96 issued by the 2nd respondent.