

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 223 OF 2009

FRIDAY , this the 10th day of JULY , 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

N.J. Augusthy, Postal Assistant,
SBCO, ICO (SB), Office of the
Post Master General, Central Region,
residing at 33/2953(A), Chilampilkunnel,
St. Mathews Church Road,
Vennala P.O., Cochin – 682 028.

Applicant

(By Advocate Mr. M R Hariraj)

versus

1. Union of India, represented by the
Secretary to the Government of India,
Department of Posts,
New Delhi – 1.
2. Smt. Soba Koshy,
Chief Postmaster General,
Kerala Circle, Thiruvananthapuram - 33.
3. The Postmaster General,
Central Region, Kochi – 18.

Respondents

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 07.07.2009 the Tribunal on
10.07.09..... delivered the following:

ORDER

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

The applicant has filed this OA challenging Annexure A3 order
dated 26.05.2008, Annexure A6 order dated 20.06.2008 and Annexure A8
order dated 26.03.2009. By these orders the applicant stood transferred to

SBCO, Trichur Head Post Office. When he sought interim relief, by detailed order dated 21.04.2009, the same was rejected. On the very same day, the counsel for the applicant on instructions submitted that in view of the fact that the interim prayer has been rejected and the applicant intends moving an application for voluntary retirement, he be not compelled to join the new duty station. This request being genuine, was accepted and suitable orders were passed. The applicant had moved an application for voluntary retirement on health grounds which was accepted on 22.06.2009 as per which he shall retire on 01.09.2009.

2. With the above development, the case could have been easily closed as having become infructuous. However, counsel for the applicant insisted that the case should be decided on merit as well and invited the attention of the Tribunal to the noting part as contained in Annexure R1. The counsel submitted that a decision had already been taken to reject the case of the applicant for retention and justifications searched thereafter which is evident from the very first sentence of the said note. He has also contended that as regards the medical report, the note suggested that the said medical report does not appear to be supported as per the report of PMG(CR). According to the counsel for the applicant, the reasons are totally devoid of merit and only vindictive action has been taken against the applicant and the entire action on the part of the respondents lacks bonafide. It has also been contended that, whereas the direction of the Tribunal is that it is the Chief Postmaster General who should analyse the case, the same was not so done. In addition, the counsel submitted that the case has been dragging on without filing proper reply, only to frustrate the case of the applicant. When counter was ready by 27.05.2009, the

same filed only on 03.06.2009 on the date of last hearing. Thus according to the counsel for the applicant, entire action has been accentuated by malafides. In the course of hearing, the applicant's counsel further submitted that if the applicant comes out victorious in this OA, there may not be any necessity for seeking voluntary retirement.

3. Counsel for the respondents confirmed the fact of applicant having applied for voluntary retirement on health grounds and the same having been accepted.

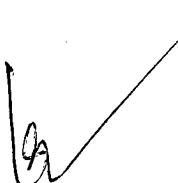
4. Arguments were heard and documents perused. That in the very first sentence of Annexure R1, it has been indicated that the request of the official can be rejected, the same cannot mean that the decision has been taken and grounds searched thereafter. This is one such way of noting which cannot be found fault with. In fact, in various judicial pronouncements, the decision is given first followed by reasons. See the following decisions :-

(a) Sk. Alek Mohd. v. State of W.B., (1974) 4 SCC 599, at Page 599:

"We recorded a short order releasing the petitioner in this petition for habeas corpus and we now proceed to give our reasons."

(b) Gur Pratap Singh Bedi v. State of Punjab, (1976) 1 SCC 526, at page 526:

"The compulsory retirement of the appellant, by the first respondent, the State of Punjab, by Exhibit A, dated January 11, 1974, was challenged before the High Court but rebuffed with merited brevity after the Court called for the reply of the respondents. The disappointed official has, by securing special leave under Article 136, come up before this Court and urged in his appeal two weak grounds which are too jejune to justify any course other than dismissal.



The facts

2. The appellant joined government service as an Excise Officer in 1944 and spiralled up over the years from the rank of Sub-inspector to that of Assistant Excise and Taxation Officer....."

(c) Chanan Singh v. Registrar, Co-op. Societies, (1976) 3 SCC 361 :

"This appeal, by special leave, lends itself to a quick burial in view of the brief facts set out below.

2. The appellant has been an employee of the second respondent....."

5. As such the contention of the counsel for the applicant in this regard is not sustainable. As regards medical certificates, though in Annexure A4, some medical certificate issued by the Principal, Government Ayurveda Medical College, Tripunithura has been referred to as one of the enclosures, the same has not been filed. The said medical certificate appears to have been considered by the PMGCR which is evident from the words, "not supported, as per the reports of CPMGCR". This does not mean that the PMG did not support but as per his report, the contention of the applicant that he is suffering from a particular disease does not appear to be supported. Annexure R1(a) clearly reflects the decision of CPMG stating that he has examined the case and he finds no merits in the contentions of the applicant. There is absolutely no flaw in the decision taken by the competent authority. The OA is thus devoid of merits and is dismissed.

Dated, the 10TH JULY, 2009.



Dr. K.B.S. RAJAN
JUDICIAL MEMBER