

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A. No. 255/87

K. Sankara Warriar

Applicant

Vs.

1. The Senior Superintendent
of Post Offices, Kottayam

X

2. Shri C. K. Viswanathan Nair,
APM (Assistant Postmaster),
H.O. Kottayam

X

X

X

X

Respondents

Mr. M.R. Rajendran Nair

Counsel for the
applicant

P. V. Madhavan Nambiar, SCGSC

Counsel for the
respondents

CORAM:

Hon'ble Shri G. Sreedharan Nair,
Judicial Member

O R D E R

In this application, the applicant who is a *Sub-Postmaster*, Thalayolaparambu, prays for quashing the order of the first respondent transferring him to Udayanapuram. The order was issued on 30.3.1987. Copy of the order is at Annexure-II. It has not yet been implemented in view of the order of stay passed by this Tribunal.

2. It is alleged by the applicant that he has hardly completed one year at Thalayolaparambu, and that he is also due to retire from service in November 1987. In the post at present he is holding, being a supervisory post, he has a special pay of Rs. 35/- which will be counted for pension. The grievance of

the applicant is that the transfer from a supervisory to a non-supervisory post without even allowing him to complete his normal tenure and resulting in drop of emoluments as well as pensionary benefits is unfair and not in the interest of the public service and hence has to be quashed. It is also alleged that it is for the purpose of accommodating the second respondent that the transfer is made and hence the order is mala fide.

3. In the reply filed by the first respondent, it is contended that in the supervisory post normally only the seniormost willing Lower Selection Grade officials are posted, but since none of them was willing to accept the post when it fell vacant at Vaikom, the applicant was posted with effect from 1.8.1984 on a temporary and ad hoc basis. On the completion of his tenure at Vaikom on 21.3.1986 he was transferred to Thalayolaparambu. On 2.6.1986, the Director General, Department of Posts issued instructions that the seniormost Lower Selection Grade official is to be posted in the supervisory post and that it is not open to such an official to decline the appointment. Hence, to accommodate the seniors, the applicant had to be sent back to a non-supervisory post.

4. Admittedly, from 1.8.1984, the applicant has been holding a supervisory post. When the post fell vacant at Vaikom, none of the seniors was willing to be

posted, and it was on that ground that the applicant was posted there, and was transferred in that capacity to Thalayolaparambu. He has been working at Thalayolaparambu only from 8.5.1986. The applicant is to retire from service on superannuation in November, 1987. The sole^{is} ground on which the order transferring the applicant from Thalayolaparambu, on the eve of his retirement, ^{is} sought to be supported, is based on the instructions issued in the letter dated 28.10.1986 ~~issued~~ by the Post Master General, Trivandrum wherein it is pointed out that it is not open to a senior Lower Selection Grade official to decline appointment to supervisory post and that all supervisory posts with special allowance of Rs. 35/- in a Division shall be filled by the seniormost Lower Selection Grade official of the Division. This letter is seen to have been issued on the basis of the letter from the Director General (Posts) dated 22.6.1986. The implementation of the instructions has been deferred till the end of the academic year, from which, it is clear that there was no intention to cause ^{undue} hardship to any employee by its implementation. On the date of the impugned order, the applicant had only a few months more to retire on superannuation. Besides, he had not completed his tenure at the station. The allegation of the applicant that the special pay of Rs. 35/- attached to the post counts

for pensionary benefits is not contraverted. As such, before issuing the impugned order, these circumstances should have been taken into account, especially when the applicant was chosen to fill up the post at Vaikom at a time when none of the seniors was prepared to do so. On a consideration of the facts of the case, I am of the view that the order of transfer cannot be sustained as relevent considerations have not been taken into account before issuing the order.

5. The application is allowed. The order dated 30.3.1987 issued by the first respondent transferring the applicant from Thalayolaparambu to Udayanapuram is hereby quashed.


(G. Sreedharen Nair)
Judicial Member

Index: Yes/~~No~~