

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....

O.A. No. 262 of 1994.

Tuesday, this the 6th day of September, 1994.

HON'BLE MR. P. SURYAPRAKASAM, JUDICIAL MEMBER

1. P.A. Vijayan,
Mail Man, Head Record Office,
RMS 'EK' Division,
Cochin-16.
2. T.A. Murali,
E.D. Mail Man,
Head Record Office,
RMS 'EK' Division,
Cochin-16.
3. T.S. Mohandas,
E.D. Mail Man, Trichur RMS,
RMS 'EK' Division,
Trichur-680 021. .. Applicant

(By Advocate Shri M. Paul Varghese)

Vs.

1. Senior Supdt. of Railway Mail Service
RMS 'EK' Division, Cochin-11.
2. Post Master General,
Central Region, Cochin-16.
3. Chief Post Master General,
Kerala Circle, Trivandrum-33.
4. Director General,
Department of Posts, New Delhi.
5. Deputy Director of Postal Accounts,
Trivandrum-695 010.
6. E.T. Ravindran Nair,
Sorter, O/o Deputy Director of
Postal Accounts, Trivandrum-10. .. Respondents.

(By Advocate Shri V. Ajith Narayanan, ACGSC)

O R D E R

P. SURYAPRAKASAM, JUDICIAL MEMBER.

In the application people who are all working as
Mail Man and Extra Departmental Mail Man respectively are

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aggrieved over the transfer and appointment of 6th respondent in the vacancy of a Mail Guard which arose out of the promotion to the then occupant under the 1st respondent and prayed to quash the transfer order at A3 and also to call for the records leading to the notification, of the vacancy position of Mail Guards, in A2, as 'Nil' and set aside the said notification of the vacancy position of Mail Guards and declare that there is one vacancy of Mail Guard for the examination notified in A1.

2. The applicant's main case is that under A2, a notification issued for the purpose of examination for promotion and recruitment to the post of Postman wherein the position of vacancies to the Postman as well as Mail Guard has been shown. Unfortunately, in respect of the Mail Guards, the position has been shown as 'Nil.' This is dated 31.1.94. The applicants stated that the 6th respondent has been transferred by an order dated 21.1.94 issued by the Post Master General, Central Region, Cochin-16. On the basis of the orders issued by the office of the Chief Postmaster General, Kerala Circle, Trivandrum and under order No. ST/36-11/5/92 dated 24.12.93 wherein the 6th respondent has been transferred to the post. The reply statement filed by the respondents also justifies this transfer on the ground mentioned in paragraph 6 of the reply statement which reads as follows:

"About the averments in Para 4(F) of the O.A. it is hereby submitted that in exceptional cases the request transfer from one cadre to another which are not identical but requires special consideration is to be referred to the 4th respondent as enjoined Order under No. STB/45-6/53-SPB dated 31.12.1954, a copy

of the same is produced as Annexure R1(c). The sixth respondent's case was considered as a special case as he is a native of Ernakulam and there is no office of Dy. Director of Postal Accounts there."

Applicant's counsel argued that the position of vacancy in respect of Mail Guard is 'NIL' may not be correct since the subsequent orders which has been issued in favour of 6th respondent clearly shows that there was a vacancy of Mail Guard. So, this notification does not reflect the true nature and by that process the applicants have been prejudiced and he has been denied a chance of promotion to the post of Mail Guard. In my opinion, this may not be correct, for the reason that the order A2 is dated 31.1.94. The transfer order viz., A3 dated 4.2.94 has already been approved by the department on 21.1.94 and communicated to the parties on 17.4.94 itself. Therefore, A2, which is dated 31.1.94 may not contain the vacancy position in regard to the Mail Guard and as since the position which has been shown in regard to Mail Guard in A2 is correct in my opinion and further more, no prejudice has been caused to the applicants in this process.

3. Applicants have made a feeble attempt to attack the transfer order of 6th respondent saying that it does not confirm to Rule 38 under which the orders of transfers were effected but no material has been placed before me to the effect that the transfer order which has been issued under Rule 38 has violated any of the principles or the conditions stipulated in the same

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conditions stipulated in the same and as ^{Such} since the arguments made by the applicant in this ground also fails.

In the circumstances, I find that there is no merit in the case and as such, it is being dismissed with no costs.

However, I feel that the bone of contention of the issue is mainly one post of Mail Guard and by way of recommendation it is made that if any one vacancy with regard to Mail Guard Post Man arose after the issuance of exhibit A2, one post alone may be reserved or included, for the purpose of Examination for promotion to be conducted in pursuance of Annexure A2.

Tuesday this the 6th day of September, 1994.


P. SURYAPRAKASAM
JUDICIAL MEMBER

List of Annexures

1. Annexure-A1: True Photostat copy of the circular No.ST/95-1/93 dt.10.1.1994 of the 2nd respondent in Endt. No.8-191 dated 17.1.1994 of the 1st respondent.
2. Annexure-A2: True photostat copy of the letter No. ST/95-1/93 dt.31.1.94 of the 2nd respondent in Endt. No.8-191 dt. 7.2.94 of the 1st respondent.
3. Annexure-A3: True photostat copy of Memo B-104 dt.4.2.94 of the 1st respondent.
4. Annexure-R1(c): True copy of the order No.STB/45-6 /53-SP8 dt.31.12.1954.