

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 262 of 1991.

DATE OF DECISION 27-4-1993

Mr M Haridasan Applicant (s)

Mr VV Surendran Advocate for the Applicant (s)

Versus

Senior Supdt. of Post Offices Respondent (s)
Calicut Division, Calicut-2 & 2 others

Mr George CP Tharakan, SCGSC Advocate for the Respondent (s)
(through Mr Ajith Prakash)

CORAM :

The Hon'ble Mr. AV HARIKASAN, JUDICIAL MEMBER

&

The Hon'ble Mr. R RANGARAJAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. To be circulated to all Benches of the Tribunal ? *no*

JUDGEMENT

AV Haridasan, J.M.

The applicant who has been working as E.O.Packer, Calicut IV Gate Post Office, Calicut under the second respondent has filed this application under Section 19 of the A.T.Act aggrieved by the termination of his services on 16.2.1989 without complying with the mandatory provisions of Chapter V-A of the I.D.Act and has prayed that the respondents may be directed to re-instate him in service forthwith with back wages and other xxxix attendant benefits.

2. In the reply statement the respondents have conceded that during 12.8.1987 to 15.2.1989 the applicant was provisionally engaged as EO Packer. But they contend that as the applicant

was initially engaged as a substitute ~~or~~ his provisional service between 12.8.1987 to 15.2.1989 being only an engagement, the provisions of I.D.Act are not attracted.

3. We have heard the arguments of the counsel for the parties and have also gone through the pleadings and the documents on record. That the applicant was working provisionally as an ED Packer from 12.8.1987 to 15.2.1989 is virtually admitted as stated in paragraph-2 of the first reply statement filed by the respondents. As the original incumbent was on unauthorised absence during this period, it cannot be said that the applicant was the nominee of the original incumbent. The engagement of the applicant during this period was made by the department and therefore there is no meaning in contending that his engagement was not a provisional service. Therefore the contention of the respondents that the applicant was only a substitute and not a provisional ED Agent has only to be rejected. It is not disputed that the services of the applicant were discontinued without issuing a notice as required under Section 25-F of the I.D.Act and without payment of notice pay or compensation. It is now settled that the Postal department is an 'industry' and the ED Agents in the Postal department though working on provisional basis are entitled to the benevolent provisions of the Chapter V-A of the I.D.Act. continuously Since the applicant has been admittedly working ^{between} ~~and~~ 12.8.1987 ^{and} 15.2.1989 at the time of termination of his services on 16.2.1989, the applicant had completed more than

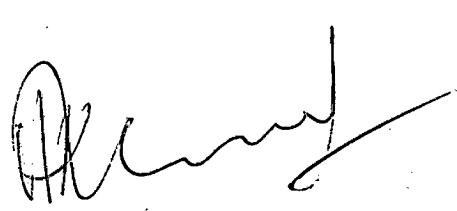
of service.

240 days, ^m Termination of the services of the applicant w.e.f. 16.2.1989 without following the mandatory provisions of Section 25-F of the I.O. Act is illegal and unjustified. Therefore, we find that the termination of the services of the applicant being illegal and against provisions of Chapter V-A of the I.O. Act is null and void.

4. In the result finding that the termination of the services of the applicant from the post of ED Packer, Calicut ^{IV Gate} Post Office w.e.f. 16.2.1989 is illegal and void, we direct the respondents to reinstate the applicant forthwith as ED Packer and to pay him full back wages for the period he was kept out of service. Back wages to the applicant should be disbursed within a period of two months from the date of receipt of a copy of this order. No order as to costs.



(R RANGARAJAN)
ADMVE. MEMBER



(AV HARIDASAN)
JUDICIAL MEMBER

27-4-1993

trs