

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 274 of 1996.

Wednesday this the 1st day of May 1996.

CORAM:

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K. Kuttalingam,
Extra Departmental Mailman,
Railway Mail Service, Kollam.

.. Applicant

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Sub Record Officer,
Railway Mail Office,
Trivandrum Division, Kollam.

2. The Senior Superintendent of
Railway Mail Service,
Trivandrum Division,
Trivandrum.

3. The Chief Post Master General,
Kerala Circle, Trivandrum .. Respondents

(By Advocate Shri K.S. Bahuleyan for Shri TPM Ibrahim Khan,
SCGSC)

The application having been heard on 1st May, 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant challenges A1 order, terminating his
services as Extra Departmental Mailman, on certain grounds.
The authority of 2nd respondent who passed the impugned
order and the tenability of the grounds upon which the

impugned order is made, are challenged. We do not propose to go into the latter. 2nd respondent cancelled an appointment made by 1st respondent on the assumption that:

"Being the controlling authority the Divisional Head has got the authority to review the records relating to the recruitment made by a subordinate authority."

(Emphasis supplied)

2nd respondent had persuaded himself to certain conclusions on imagined powers of a review available to "Controlling Authority". The power of review, like most powers, is a power by conferment, not inherent. Under the Code of Civil Procedure the power of review is exercised by reason of an express conferment under Section 115 thereof. Likewise, the power of review is exercised under the Code of Criminal Procedure by virtue of conferment under Section 397 to Section 401. Unlike a Court of record, an administrative authority does not have something in the nature of a visitatorial jurisdiction, under Article 227. The department will do well to familiarise its subordinates with the nature and extent of powers possessed by them. Assuming powers which are not conferred would amount to usurpation of jurisdiction that does not inhere in one. Applicant has a specific grievance based on violation of natural justice. He submits that A1 has been passed without hearing him. We had indicated the course to be followed in the case in O.A. 1347/95. Probably, respondents

committed an honest mistake in understanding the scope of the order. Be that as it may, if an authority proposes to cancel an order, which it is competent to cancel, it must put the person who is likely to be affected on notice, consider his representations and then act. (Emphasis supplied) We do not propose to advise the department as to who the competent authority is, to cancel an appointment (if it could be cancelled.) It is for the department and its officers to ascertain the nature and limits of their powers and act inside that. The impugned order is quashed with freedom to the competent authority to examine whether the appointment is in order, and if not, to take such action as law permits.

2. Application is allowed to this extent. No costs.

Wednesday this the 1st day of May 1996.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A1: True copy of the order No.05/0A-1347/95
dated 27.2.1996 issued by 2nd respondent to the applicant.