

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 285 of 1992
~~T. A. No.~~

DATE OF DECISION 24-4-1992

Mr K Jayakumar Applicant (s)

Mr M Rajagopalan Advocate for the Applicant (s)

Versus

Sr. Superintendent of Post Respondent (s)
Offices, Trichur Division & another

Mr NN Sugonapalan, SCGSC Advocate for the Respondent (s)-1

CORAM :

Mr MR Rajendran Nair - Advocate for the respondent-2

The Hon'ble Mr. SP MUKERJI, VICE CHAIRMAN

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Shri SP Mukerji, Vice Chairman)

We have heard the learned counsel for ^{all} the parties in this case, in which the applicant has challenged the selection of respondent-2 and has staked his claim on the basis of the marks obtained by him in the SSLC and ^{his} ~~he is~~ having worked as a ^a substitute in the post. This application was filed on 17.2.92. On 18.2.92 the learned counsel for the applicant obtained a stay order of status quo. With the application the applicant had attached the impugned order dated 10.2.92 at Annexure-A7

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allegedly issued by the Senior Superintendent of Post Offices, Trichur to him in which it was indicated that his services will be terminated only on 21.2.92. It was indicated that ^{by him} this order ^{had} ~~was~~ ^{been} never handed over to the applicant, but had ^{merely} been shown to him. It may be noted that without this Annexure, the applicant's continuance as a substitute beyond 14.2.92 vide Annexure-R3 when the leave of the incumbent Smt K Karthiayani expired, ^{been possible} would not have ~~existed~~. This Tribunal primarily relying upon the authenticity of Annexure-A7, passed the interim order. Now when the case was taken up, the learned counsel for the Postal Department, by consulting the relevant files, indicated that Annexure-A7 was never issued and as a matter of fact it does not exist. The learned counsel for the respondent-2 also stoutly challenged the existence of Annexure-A7 and indicated further that the applicant ^{already} had ^{been} handed over charge on 15.2.92 itself and ^{that respondent 2} ~~he~~ had taken over on that very day and this fact was suppressed by the applicant on 18.2.92 when the Tribunal passed the interim order. It was also brought to our notice that whereas in the original application it was indicated by the applicant that he was called on 15.2.92 by the Inspector of Post Offices, Vadakkancherry and he was shown the original of Annexure-A7 and he was asked to sign ^{in token of his} ^{having} seen that letter, in the M.P-568/92, he has given ^a different

version. He has stated therein that he was shown Annexure-A7 order on 13.2.92 and he was asked merely to read it and return.

2. In the entire circumstances of the case as brought out from the documents before us, we have considerable doubt about the authenticity of Annexure-A7 and we have no reason to disbelieve the averment of the learned counsel for the respondent-1 that Annexure-A7 does not exist at all. The applicant may have perhaps a good case but he seems to have been tempted to resort ^{to} dubious means for obtaining an interim order and prosecuting his case. Such a person should have no sympathy from this Tribunal. A person who approaches this Tribunal should seek redress in accordance with law ^{and} must come with clean hands. The learned counsel for the applicant is fair enough to state that the applicant has committed a mistake. But that does not improve this position so far as this application is concerned. Even if, he may be the best candidate, his conduct by itself disqualifies him from staking his claim over the selected candidates ^{for} the post in question. As a substitute, he has no right to continue ^{beyond} ~~and~~ the 14.2.92 when the ^{leave} ~~relieve~~ of the original incumbent expired.

3. In the facts and circumstances, we see no merit in the application and dismiss the same, without any order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


24.4.92
(SP MUKERJI)
VICE CHAIRMAN

24-4-1992

trs