

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION

20th FEBRUARY, 1990

PRESENT

HON'BLE SHRI S.P. MUKERJI-VICE CHAIRMAN

&

HON'BLE SHRI A.V. HARIDASAN-JUDICIAL MEMBER

ORIGINAL APPLICATION No. 298/89

C.K.V. Narayanan

.. Applicant.

Vs.

1. Superintendent of Post Offices,
Cannanore Division,
Cannanore.
 2. Director of Postal Services
(Northern Region),
Calicut-673 032.
 3. Member (P),
Office of the Director General of Posts,
New Delhi.
 4. Union of India, represented by
its Secretary,
Ministry of Communications,
New Delhi.
- .. Respondents

Counsel for the applicant .. M/s OV Radhakrishnan,
K.Radhamani Amma &
Raju K.Mathew.

Counsel for the respondents.. Mr.K.Karthikeya Panicker,
Addl.C.G.Sc.

ORDER

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

The short point in this application filed
under Section 19 of the Administrative Tribunals Act
on 22.5.89 is ^{whether} ~~that~~ the applicant could not be allowed
to cross the Efficiency Bar on 1.8.85 when other similarly
placed like him were allowed to cross the Efficiency Bar.
The applicant's date of crossing of Efficiency Bar fell

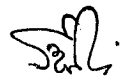
on 1.8.85 but he was not allowed to cross the same because of his participation in the strike on 19.9.84. For this participation in the strike he was originally given a break in service vide the order dated 2.11.84 (Exbt.A.2) but later the same was cancelled and the period of absence on the date of strike was treated as 'dies non' vide the order at Exbt.A.4 dated 23.7.86. His representation for permission to cross the Efficiency Bar dated 5.11.85 was replied to by the respondents vide their letter dated 8.11.85 informing him that he was not found fit to cross the Efficiency Bar. His appeal was rejected on 7.4.87 (Exbt.A.6) on the ground that he had participated in the strike. His review petition was also dismissed on 8.2.89 (Exbt.A.8) without a speaking order. The main contention of the applicant is that others who had also participated in the strike and whose case also the period of absence was treated as 'dies non' have been allowed to cross the Efficiency Bar on the due dates. The respondents' contention is that those officials who had been allowed to cross the Efficiency Bar in spite of the participation in the strike were allowed to cross the Efficiency Bar because they had not been informed about the decision that they had not been allowed to cross the Efficiency Bar. We are not impressed by this

because
argument ~~that~~ in case of the applicant also, as has
been stated earlier, he was not informed about his
not being allowed to cross the Efficiency Bar until
he had represented on 5.11.85 and he was informed
thereafter on 8.11.85. We ^{are} ~~also~~ impressed by the
argument of the learned counsel for the applicant
that in accordance with Rule 270 of P & T Manual,
crossing of Efficiency Bar can be stopped only when
one is not found to be fit for holding the post.
Not allowing the crossing of Efficiency Bar cannot be ^{imposed} ~~be~~
a matter of punishment ^{as a} ~~or~~ consequence of participation
in a strike.

2. In the facts and circumstances, we allow this
application, set aside the impugned orders at Exbts.A.6
and A.8 and direct that the applicant should be allowed
to cross the Efficiency Bar with effect from 1.8.85 with
all consequential benefits. There will be no order
as to costs.



(A.V. HARIDASAN)
JUDICIAL MEMBER



(S.P. MUKERJI)
VICE CHAIRMAN

20.2.90

Ksn.