

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 316/91  
~~XXXXXX~~

1991

DATE OF DECISION 18-4-1991

EJ Pylee Applicant (s)

(Applicant in person) Advocate for the Applicant (s)

Versus

Chief Postmaster General Respondent (s)  
Kerala Circle, Trivandrum

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, 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 NV Krishnan, A.M

The applicant is aggrieved by the Annexure-I Telegram dated 27.2.91 received while he was on leave as Superintendent of Post Offices, Alwaye after being relieved from that post, directing him to join as Deputy Superintendent of Post Offices at Calicut vice Shri S Venkataraman who was due to retire on 28.2.91.

2 The brief facts leading to this grievance are as follows.

21 The applicant is a native of Angamally, Ernakulam District. After his regular appointment to Group B, he was posted as Deputy Superintendent of Post Offices, Calicut on 13.4.88. While he had completed a term of about 2 years there, his request for a transfer to Alwaye on grounds of personal problems was favourably considered.

6

He was, therefore, transferred from Calicut as Superintendent of Post Offices, Alwaye by the Annexure VIII order dated 29.6.90 by downgrading that post, as otherwise, that post was normally to be held by an officer in the junior time scale. For certain other administrative reasons, he could assume charge only on 17.8.90.

2.2 Shortly thereafter, one Shri M Sampat, an Officer of the Indian Postal Service Cadre was allotted to Kerala and the only post where this junior time scale officer could be accommodated was on the post at Alwaye held by the applicant, after again upgrading it. Accordingly, orders were issued on 24.1.91 (Annexure X) posting Shri M Sampat, IPS as Senior Superintendent of Post Offices, Alwaye vice the applicant. The endorsement indicated that the posting orders in respect of the applicant were being issued separately, which were received only on 27.2.91.

2.3 Pending such orders the applicant states that he was forced to proceed on leave. He also submitted a representation on 31.1.91 (Annexure XI) to consider his transfer to the post of Superintendent, Circle Stamp Depot.

2.4 Without considering this representation, the impugned telegram at Annexure-I was sent to the applicant directing him to join at Calicut again as Deputy Superintendent of Post Offices.

3 The applicant has sought the following reliefs:

(i) to declare Annexure-I transfer order as illegal and null and void;

(ii) to direct the respondent to re-post the applicant in the post he held at Alwaye on 4.2.91;

⑨

- (iii) to order promotion of the applicant to junior TS Group A with retrospective effect from the date Shri AP Noorudeen was promoted with all consequential benefits;
- (iv) to order of special pay of Rs 200/- to the applicant from the date his juniors were posted as Assistant Director;
- (v) to order crediting of leave of 64 days to the leave account of the applicant towards the periods from 9.7.90 to 17.8.90 and 5.2.91 to 28.2.91 during which periods he was prevented from performing duty;
- (vi) to direct the respondent to keep the future vacancies of SSP Alwaye, AD Regional Office, Cochin and the existing vacancy at Circle Stamp Depot, Ernakulam unfilled till the disposal of this application;
- (vii) Grant such other reliefs as may be prayed for and the Tribunal may ~~deem fit to grant~~ deem fit to grant ; and
- (viii) grant the cost of this original application -

4           The respondents have claimed that the transfer became inevitable and therefore, it cannot be challenged. His posting back at Calicut is necessary as that is a heavy charge and requires to be manned by an experienced person.

5           We have heard the applicant and the learned counsel for the respondents and also perused the records.

6           The applicant is aggrieved by the Annexure-I transfer order for a number of reasons into which do not find it necessary to go. We have only to observe that though the respondents were, no doubt, considerate enough to accede to his request for a transfer from Calicut, in retrospect, this appears to be a short sighted decision. For, in hardly six months it found it necessary to post him back to Calicut again. We are of the view that if the respondents were circumspect they

could have anticipated all the contingencies and such a situation could have been avoided.

7 We are also satisfied that in view of <sup>the</sup> need to give a posting of Shri M Sampat, IPS a junior time <sup>an officer</sup> scale, it was necessary to post him at Alwaye by upgrading the post and transferring the applicant. Thus, the applicant, who should have enjoyed a normal tenure of two or three years at Alwaye, after being transferred at his own request, had to <sup>be</sup> uprooted from there, purely because of exigencies which could have been anticipated. He is being put to inconvenience, which could have been avoided.

8 In the circumstances, the applicant's further transfer from Alwaye has to be dealt with most sympathetically keeping in view not only the consideration that he is due to retire after about 3½ years, but also the fact that he has been subjected to this kind of hardship, mainly on account of the ill considered decision of the respondents in initially transferring him to Alwaye.

9 It was submitted by the applicant that the post of Superintendent Central Stamp Depot, Ernakulam is vacant and he could be accommodated there without causing much hardship. The respondents submit that though this is the only post of its kind in Kerala State, yet, it can easily be managed by being given <sup>an</sup> as an additional charge to any officer at Ernakulam, as has been the general practice in the past. They also submit that the applicant's

Calicut

presence is more needed at ~~Ernakulam~~ than elsewhere.

10 We are of the view that it would be absurd to transfer the applicant back to Calicut, after he was transferred from there, a few months ago at his request. This exigency should be met by the respondents in the same manner as they would have done, if Shri M Sampat had not been posted to Kerala, which was the immediate course of the applicant's transfer. Further, the respondents have stated that 12 senior-most officers eligible for posting to Group B posts have been sent on training and they should be back by now. The post at Calicut can therefore, be manned without transferring the applicant.

11 In the circumstances, we are firmly of the view that the applicant's transfer to Calicut by the Annexure-I order has to be quashed and that we have also to leave a certain amount of flexibility with the respondents in the matter of his posting on transfer from Alwaye. We are satisfied that the interest of justice would be met if we quash Annexure-I order and the respondents are directed to consider 'suo motu' the posting of the applicant either in Ernakulam District or in any district adjacent to Ernakulam after considering the representation earlier made on 31.1.91 at Annexure XI and the observations we have made regarding the need for a sympathetic consideration of his case.

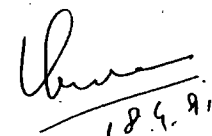
12 The respondents are therefore, directed to pass final orders before <sup>12</sup>6th May, 1991 till which period the

interim directions issued on 6.3.91 treating him as on waiting will continue.

13 In the circumstances, we have not considered the other reliefs prayed by the applicant as they are not directly connected with the main grievance of his transfer. Therefore, this judgment will not stand in the way of either the applicant from making a representation to the Department, if so advised, or of the Department from disposing of such a representation.

14 This application is disposed of as above and there will be no order as to costs.

  
(N Dharmadan)  
Judicial Member

  
(NV Krishnan)  
Administrative Member

18-4-91