

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 323 of 2002

Wednesday, this the 25th day of September, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. E.K. Chandrasekharan,
Cashier, SRO, RMS 'EK' Division,
Irinjalakuda, Kallettumkara PO.Applicant

[By Advocate Mr. P. Viswambharan]

Versus

1. Union of India, represented by its
Secretary, Ministry of Communications,
Department of Posts, New Delhi.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Postmaster General,
Central Region, Kochi-682 016
4. Director of Postal Services,
Central Region, Kochi-682 016
5. Senior Superintendent,
RMS 'EK' Division, Kochi-682 011
6. Sub Record Officer, RMS 'EK' Division,
Irinjalakuda, Kallettumkara PO.
7. K.K. Usha, S.A., Sub Record Office,
RMS 'EK' Dn., Irinjalakuda,
Kallettumkara PO.Respondents

[By Advocate Mr. S.K. Balachandran, ACGSC (R1 to R6)]
[By Advocate Mr. P.S. Biju (R7)]

The application having been heard on 25-9-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, a Sorting Assistant having been
volunteered for a posting as Cashier, was by order dated
12-6-2000 appointed as Cashier in the Sub Record Office,
Irinjalakuda. The applicant is aggrieved by Annexure A3 order
dated 19-4-2000 by which he has been transferred from the post

of Cashier and posted as Sorting Assistant (TBOP), SRO Irinjalakuda and the 7th respondent, Smt.K.K. Usha, has been posted as Cashier, SRO Irinjalakuda. It is alleged in the Original Application that the transfer of the applicant from the post of Cashier to that of Sorting Assistant, which caused him financial loss, without issuing him a notice and giving an opportunity of being heard, is unsustainable and therefore, he has filed this Original Application seeking to set aside Annexure A3 as arbitrary, unconstitutional, ultra vires and void, declaring that the applicant is entitled to continue as Cashier, SRO, Irinjalakuda for the whole of his tenure of 4 years.

2. On behalf of respondents 1 to 6 a reply statement has been filed in which it has been stated that the posting of the applicant as Cashier, while the time scale Sorting Assistant, the 7th respondent, was available and willing, on a review undertaken on the basis of the complaint of the 7th respondent was found to be not correct and that the impugned order Annexure A3 was made only to rectify the mistake committed. It is further contended that in Annexure A3 order it is made clear that the decision was subject to the outcome of the representation made by the applicant before the Director of Postal Services.

3. The 7th respondent has filed a reply statement in which it is contended that the injustice meted out by the 7th respondent by ignoring her superior claim was undone by the impugned order Annexure A3 and that the representation submitted by the applicant before the Director of Postal Services has been considered and disposed of by Annexure R7(3)

letter stating that the replacement of the applicant was perfectly in order and that the above decision has also been communicated to the applicant.

4. We have heard the learned counsel for the parties and have perused the documents placed on record.

5. It is evident from what is stated in the pleadings that as per the instructions on the subject contained in the letter of the Director General (Posts) dated 19-4-1989 (Annexure R1(1)), if a time scale Sorting Assistant with 5 years of service is available, he should first be considered for posting as Cashier and only in the absence of such an official, a TBOP official is to be considered. We find that by the decision taken to replace the applicant by the 7th respondent who was a time scale Sorting Assistant with requisite length of service and willing, the mistake committed had only been rectified. However, the order passed does not visit the applicant with any adverse civil consequence. Further, for rectification of a mistake, no notice is required as no detriment has been suffered by the applicant. The representation of the applicant has already been considered and disposed of giving the applicant a copy of the decision.

6. In the light of what is stated above, the Original Application being devoid of any merit is dismissed leaving the parties to bear their respective costs.

Wednesday, this the 25th day of September, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

Ak.



A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of Memo No.B.137/2000 dated 12.6.2000 of Senior Superintendent, RMS 'EK' Dn., Kochi-11.
2. A-2: True copy of the letter No.B-137 dated 28.12.1999 of Senior Superintendent, RMS 'EK' Dn. Kochi-11.
3. A-3: True copy of Memo NO.B-137 dated 19.4.2002 of Senior Superintendent, RMS 'EK' Division, Kochi-11.
4. A-4: True copy of the representation dated 23.3.2002 submitted by the applicant to the 5th respondent.
5. A-5: True copy of the letter No.B-137 dated 4.4.2002 issued by the 5th respondent, addressed to SRO, RMS 'EK' Dn., Irinjalakuda.
6. A-6: True copy of representation dated 8.4.2002 submitted by the applicant.

Respondents' Annexures:

1. R-1(1): True copy of the letter No.3-3-88-SPB-II dated 19.4.89 of the Director General, Ministry of Communications.
2. R-1(2): True copy of letter No.staff/A/9/Dlgs dated 12.5.76 of Assistant Director (Staff), Office of PMG, Trivandrum.
3. R-1(3): True copy of the letter No.ST/105-2/98 dated 1.5.02 PMG, Kochi.
4. R-7(1): True copy of the representation dated 17.6.2000 submitted by the 7th respondent before the 5th respondent.
5. R-7(2): True copy of the Letter of D.G of Posts No.3-3/88-SPB II dated 6th April, 1989.
6. R-7(3): True copy of the reply given to the applicant by the 4th respondent through 5th respondent dated 3.5.2002.

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