

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Dy No. 1757/93

O. A. No. 325/93 199

DATE OF DECISION 22-2-1993

MK Sadasivan Pillay Applicant (s)

M/s MR Rajendran Nair & PV Usha Advocate for the Applicant (s)

Director of Postal Services  
Headquarters, Trivandrum Respondent (s)  
and others

Mr George CP Tharakan, SCGSC Advocate for the Respondent (s)  
rep. by Mr Ajit Prakash.

CORAM :

The Hon'ble Mr. N. Dharmadan, Judicial Member.

XXXXXX

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

This application has come up before me for admission on mention to-day, in view of the urgency.

2 The applicant is presently working as IRM, Trichur RMS. He is aggrieved by the order dated 12.2.93 at Annexure-II, by which he has been transferred and posted as Additional O.S, Office of the SSRM, Trivandrum Division against an existing vacancy. By the same order Respondent-4, IRM, 'CT' Division was transferred and posted in his place.

3 According to the applicant this transfer is malafide and illegal and liable to be set aside by this Tribunal. He alleges that the stern action taken by him against the persons who have resorted to the strike at RMS Trichur on 6.1.93 and 7.1.93 resulted in the transfer. According to him the persons

who participated in the strike are members of a powerful Union which exerted influence on the authorities for the transfer of the applicant from Trichur. Hence, the said transfer order has not been issued ~~as if~~ <sup>there is</sup> exigency of service. It is further submitted that the said transfer is against the Director General's letter dated 12.2.93 and the provisions of Rule 59 of the P & T Manual Vol.II. There are, according to the applicant, two vacancies in the cadre of IRM in Ernakulam and he can be accommodated in any of the vacancies, for he was originally working in Ernakulam before his transfer to Trichur as per Annexure-I order dated 7.6.90. After Annexure-I order, he settled at Trichur by getting a transfer for his wife over to Trichur. The present transfer in the middle of the academic year would dislocate his family and create problems for him. Under these circumstances, he filed Annexure-III representation dated 13.2.93 before the Chief Postmater General, Kerala Circle, Respondent-2. The same has not been disposed of so far. But in the meantime, without considering the same, steps are being taken to relieve the applicant to fill up the post at Trichur. Hence, he filed this application under Section 19 of the Administrative Tribunals Act of 1985 challenging the said order.

4 When the matter came up for admission, learned counsel for the respondents opposed the admission of this application itself by stating that the impugned transfer order has been passed in the exigency of service and the D.A is to be dismissed in- limine.

5 Having heard the counsel on both sides, I am satisfied that there is *prima facie* a case for the applicant which requires careful examination by the competent authority, particularly when the applicant has raised all the above allegations and averments in the application and submitted

Annexure-III representation against the transfer order.

6 In this view of the matter, I admit this application and dispose of the same directing the 2nd respondent to consider and dispose of Annexure-III representation as expeditiously as possible without any delay. Learned counsel for the applicant submitted that the applicant is willing to go on transfer either to Ernakulam or to Kottayam where, according to him, vacancies are existing. If the respondents are keen in transferring him before completion of the normal term stating that there is exigency of service, he may be transferred either to Kottayam or Ernakulam. Accordingly, in the light of this submission, I also direct the 2nd respondent to consider the request of the applicant while disposing the Annexure-III representation as stated above.

7 Having regard to the facts and circumstances, I also direct the respondents that the applicant shall be allowed to continue in the present post at Trichur, if he has not been relieved pursuant to Annexure-II transfer order, till the disposal of the representation at Annexure-III in terms of the above direction.

8 The application is disposed of as above. There is no order as to costs.

  
N Dharmadan  
22.2.93  
(N Dharmadan)  
Judicial Member  
22-2-1993