

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

No. O.A. 33/1986

T. Koshy : Applicant

Versus

- |   |                  |             |
|---|------------------|-------------|
| 1. Senior Superintendent,<br>Department of Posts,<br>RMS Ek. Division, Cochin | X<br>X<br>X<br>X | Respondents |
| 2. Union of India represented<br>by Director General, Posts,<br>New Delhi.    | X<br>X           |             |

M/s M.K. Damodaran, P.V. Mohanan, : Counsel for  
J. Jose, V.K. Mohanan applicant

Shri P.V. Madhavan Nambiar, : Counsel for  
SCGSC respondents

CORAM:

Hon'ble Shri S.P. Mukerji, Administrative Member  
and  
Hon'ble Shri G. Sreedharan Nair, Judicial Member

ORDER

(Pronounced by Hon'ble Shri S.P. Mukerji)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 moved by the applicant on behalf of All India RMS and Mail Motor Services Employees Union, Class III Kerala Circle challenging the amendment of the definition of Head Record Office in para 17 of the P & T Manual Volume V as also the order of Director General, Posts, dated 19-12-1985 by which the Head Record Office of the Railway Mail Service was converted from an administrative to an operative office (Annexure III to the

application). As a result of such conversion of the Head Record Offices from administrative to operative office the Head Record Office, Cochin has to observe 6-day forty eight hours week instead of 5-day forty hours week. The brief facts of the case are as follows.

2. With effect from 1st June, 1985, 5-day work in a week was introduced in all 'administrative offices'. At that time since the Head Record Offices of the RMS remained designated as an administrative office vide Notification dated 12-2-1964, the 5-day week became applicable to Head Record Office at Cochin also. This position went on till 19-12-1985 when by the impugned amendment the Head Record office was redesignated as an 'operative office' subject to 6-day week system of work. According to the applicant such a unilateral redesignation of the Head Record office as an operative office is illegal as it changed the condition of service of the staff without giving them any opportunity to contend against such adverse action. By this redesignation the total number of <sup>working</sup> hours per week has been increased from 40 to 48 without any monetary or other benefits. It has also been urged that such a vital matter

(Contd)

concerning the condition of service of the employees should have been discussed in the Joint Consultative Machinery as the Notification increased the work-load of the employees without proportionate <sup>mandatory</sup> increase in ~~number of staff~~. The increase in working hours is <sup>also</sup> likely to reduce the staff strength of the office with consequential retrenchment of staff. They have also challenged the amendment as violative of Section 9A of the Industrial Disputes Act which requires the employer to give notice to the employees whenever a change in <sup>conditions of</sup> service is effected.

3. According to the respondents the Director General, Posts as Secretary of the Department is fully empowered to frame rules and regulations and to revise, amend or supersede them in order to ensure efficient operation in post offices and the Railway Mail Service. Under the old Rule 17 of the P & T Manual Volume V (Chapter I) the Head Record office of RMS was defined as a 'branch' of the office of the Superintendent, RMS. According to the respondents, this is very old rule dating back to 60-70 years. They have argued <sup>that</sup> the functions of the accounts branch of Head Record office are similar <sup>that in</sup> to Head Post offices on the postal wing which perform operative duties in addition to the preparation of salary and


and contingent bills of Postal Divisions. The Head Post Offices are treated as operative offices and the work in the Head Record offices are similar and operative in nature. They have further argued that the duties relating to the records performed in the Head Record offices are almost the same as those performed by Record Offices of RMS which <sup>the</sup> <sup>have always been</sup> ~~are~~ treated as operative offices. The decision to make the Head Record Offices as operative offices was taken after a discussion held in the Heads of Circles Conference, 1985. Most of the Postmasters-General participated <sup>ing</sup> in the discussion held the view that the Head Record Offices should be treated as independent operative offices, and accordingly the impugned orders were issued. The Staff Inspection Unit of the Finance Ministry also treated the Head Record offices as an office independent of the Divisional Superintendent, RMS and prescribed separate co-efficient for its work load. The respondents have also stated that the Sorting Assistants in RMS are liable to work in any of the RMS offices whether operative or administrative, and the posts in Head Record offices, Record Offices and sub Record Offices are <sup>n</sup> <sup>tenue</sup> posts.


4. We have heard the arguments of counsel for both the parties and gone through the documents carefully. We cannot persuade ourselves to accept the contention of the applicant that designating the Head Record office as an operative office after fully taking into account the nature of work done in that office in relation to the Head Post Offices or Record Offices of the RMS, is tantamount to changing the condition of service of any category of postal employees. Nothing has been shown to indicate that any category of employees in the Head Record office has to work inextricably in that office throughout their career. On the other hand it was argued by the learned counsel for the applicant that the employees working in that office are transferable to other Record offices also which are operative offices. The respondents have stated that posting in Head Record offices, Record Offices, Sub Record Offices, etc. is only on tenure basis. Accordingly the impugned designation of the Head Record Office as an operative office cannot be attributed to affect the conditions of service of any category of officials. At its worst it can affect only those ~~belonging~~ who happen to be posted in the Head Record offices for a spell in their career. Change in working hours in Head Record Office is incidental

to public service but cannot per se be construed to be a condition of service itself. Postal service and Railway Mail Service are essential public services and the respondents are the best judge in the matter as to how that public services should be rendered most economically and efficiently. They in their collective wisdom, in a conference of Heads of Circles, came to the conclusion that these offices should be treated as operative offices and not administrative offices. It is not for the Tribunal to question that judgment. Nothing has been shown by the applicant to establish that there is any statutory obligation on the part of the respondents to discuss the matter in the Joint Consultative Machinery before taking the decision. In the context of our finding that redesignation of the office has nothing to do with the condition of service of the employees, omission of consultation with the representatives of the staff will not invalidate the impugned amendment or the notification about the redesignation. Further, since the impugned amendment and redesignation have been made applicable on an all-India basis it cannot be <sup>held</sup> ~~stated~~ that it suffers from the vice of hostile discrimination. Even otherwise the benefit of 5-day week happened

to have been extended to the Head Record Offices  
for about six months between 1-6-1985 to 19-12-1985.  
Such a short period cannot be deemed to have created  
any vested interest that need to be statutorily  
protected.

5. In fine we see no merit in the application  
and dismiss the same. There will be no order as  
to costs.

  
(G. Sreedharan Nair)  
Judicial Member  
23-2-1988

  
(S.P. Mukerji)  
Administrative Member  
23-2-1988

Index : YES / NO