

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No.333 of 1995

Thursday this the 2nd day of March, 1995

CORAM:

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR.S.P.BISWAS, ADMINISTRATIVE MEMBER

M.B.Radhakrishnan,
Casual Labourer,
Foreign Post Office,
Cochin,
residing at Mattezhathu House,
Perumbalam. .. Applicant

(By Advocate Mr.Sreelal N.Warriar)

vs.

1. Union of India represented by
the Secretary,
Ministry of Communications,
New Delhi.
2. Post Master General,
Kerala Circle,
Trivandrum.
3. Senior Superintendent of Post Offices,
Ernakulam Division,
Kochi. .. Respondents

(By Advocate Mr.MHJ David J, ACGSC)

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicant, fortified by an order of this Tribunal claims regularisation. He states that his juniors have been regularised and that he too must be regularised for that reason. The Tribunal observed in A1:

"we direct third respondent to regularise the applicant if any of his juniors having lesser number of days of work has been regularised."

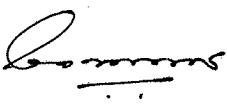
2. The obvious need not be stressed. We find no adjudication of seniority in the order A1. If seniority of applicant vis-a-vis that of others had been determined, applicant can

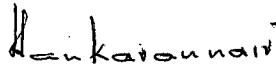
perhaps contend for what he has now contended for. In a vacuum, no determination can be made of seniority by us or directions issued. As it is, applicant has no actionable cause of action. As for his contention that his juniors have been regularised, we are at a loss to appreciate this contention, because juniority or seniority had not been determined in any validly constituted proceedings, as already noticed. That apart, the so called juniors themselves who had obtained orders similar to Al had moved this Tribunal in contempt and got orders of regularisation from respondents with the Sword of Democles hanging over their heads in the form of contempt petitions. Such situations cannot be perpetuated or countenanced. From experience, we find that it has become a strategy to get conditional orders without impleading necessary parties, file contempt petitions, and virtually force the department to grant orders of appointment, which in turn leads to another vicious circle, and yet another. Department also seems to acquiesce in such situations.

3. If at all, there must be a fact adjudication in such a situation, as pointed out by the Supreme Court of India in R.K.Panda and others vs. Steel Authority of India & others (1994 (5)SCC 304). We decline jurisdiction. This will not stand in the way of applicant from resorting to appropriate forums for reliefs.

4. The application is dismissed. No costs.

Dated the 2nd March, 1995.


S.P.BISWAS
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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List of Annexures

Annexure A1:- True copy of the Judgement in O.A 1925/1991
dated 21.8.1992 of the Hon'ble Central
Administrative Tribunal, Ernakulam Bench.