

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A 34/93

Friday, the twelfth day of November, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

P. Gouri  
Lakshmi Sadanam  
Moozhikkara  
Mannur District

Applicant

By Mr. O.V. Radhakrishnan

vs.

1. Supdt. of Post Offices  
Tellicherry Division,  
Tellicherry-670102

2. Union of India represented by  
its Secretary, Ministry of  
Communications, New Delhi

Respondents

By Mr. C. C. Thomas, ACS C

ORDER

N. DHARMADAN

The applicant filed earlier two applications O.A.K 346/88 and O.A. 121/90 in connection with selection of EDSPM, Moozhikkara Sub Office. She is now aggrieved by Annexure A-4 order which reads as follows:

"Please refer your letter cited above. The entire issue has been examined in detail and it has been found that orders of CAT in the judgment in O.A. No. 121/90 had been fully and correctly implemented."

2. The applicant was originally appointed as EDSPM, Moozhikkara S.O. w.e.f. 11.7.87 on a put off vacancy of the regular incumbent. When steps were initiated by the first respondent for regular selection to the post fixing the age limit as 30 years, the applicant file O.A.K. 346/88. It was allowed as per the judgment of this Tribunal. In the regular selection one K. Premarajan was selected. When steps were being taken to post K. Premarajan, Annexure A-1 order was passed terminating the service of the applicant. That order was challenged in O.A. 121/90 which culminated in Annexure-A2 judgment. The operative portion of the judgment reads as follows:

"We, therefore, set aside Annexure-2 order and the appointment of Respondent No. 4 as EDSPM, Moozhikkara Sub Post Office and direct respondent-1 to conduct a fresh selection in which the claims of both the applicant and respondent-4 should be considered. This shall be done within a period of two months from the date of receipt of a copy of this judgment. Till a final selection and appointment is made, the respondent-4 will be allowed to continue on a provisional basis but we make it clear that in case the Respondent-4 is not selected she should yield place to applicant."

3. Thereafter, pursuant to the direction in the judgment, steps were taken for regular selection. In the meantime, one M.P. Vijayan filed O.A. 1380/91 in which the applicant was also a party. In that <sup>case</sup> a direction was issued to consider Mr. Vijayan also in the regular selection. Ultimately, in the regular selection, Shri Vijayan was selected and appointed. Under these circumstances, the applicant filed Annexure A-3 representation claiming back wages for the period from the date of termination till passing <sup>an</sup> the order validly terminating the service of the applicant taking the view <sup>that</sup> of the order in O.A. 121/90 has not severed his service in accordance with law.

4. The contention of the applicant cannot be accepted in the light of the clear wordings in the operative portion of Annexure A-2 judgment. When the applicant challenged the termination of his service in O.A. 121/90, we accepted the contentions of the applicant and found that the termination was in violation of the rules and directed first respondent to conduct a fresh selection for finding out the suitable candidate to be appointed as EDSPM, Moozhikkara Sub Office. We also directed that till the selected person is appointed the person who was holding the post on provisional basis would be allowed to continue. The purpose of giving such a specific direction is to appoint the regularly selected person in that post after displacing the incumbent occupying the post on provisional basis. In other words, it was made clear that the person who was occupying that post cannot have a legal right

to continue in that post after the appointment of the legally selected candidate.

5. Having regard to the facts and circumstances of the case, we are satisfied that the contention now raised by the applicant cannot be accepted particularly when there is specific direction in O.A. 121/90 and O.A. 1380/91. The first respondent has implemented the direction in the judgments.

6. If the applicant has any grievance against his termination, it should have been raised at the time when final decision was taken in O.A. 121/90 or O.A. 1380/91. It is also made clear that the applicant has <sup>his</sup> right to approach the Industrial Tribunal under I.D.A. Act for redressing his grievance if any in connection with the termination of the service.

7. The learned counsel for the applicant submitted that in view of the fact that the applicant has continuous service from 11.7.87 to 7.2.90, her claim deserves consideration by the first respondent when a subsequent vacancy arises in the Sub Division. The learned counsel for <sup>the</sup> applicant also submitted that a retirement vacancy of EDBPM is likely to arise in the East Kadirur <sup>4</sup> postoffice and the applicant's claim for appointment deserves consideration. The learned counsel for respondents submitted that this is matter which requires further examination and he is not in a position to make any statement. <sup>at this stage.</sup>

8. Having regard to the prior service of the applicant we are satisfied that this is a matter which deserves consideration in case the applicant files representation for the above post.

9. With the above observation, we close the application.

10. There shall be no order as to costs.

*S. Kasip*

(S. KASIPANDIAN)  
MEMBER (ADMINISTRATION)

kmm

*N. Dharmadan*  
12.11.93

(N. DHARMADAN)  
MEMBER (JUDICIAL)

\* corrected  
order  
dated 2/12/93  
in MP1913/93