

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 9-1-1990

PRESENT

HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN
&
HON'BLE SHRI A.V.HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.337/89

N.Manmadan - Applicant

V.

1. Sub Divisional Inspector of Post Offices, Sherthalai.
2. Senior Superintendent of Post Offices, Alleppey.
3. Union of India, represented by the Secretary, Ministry of Communication, New Delhi.
4. District Employment Officer, Alleppey.
5. KN Purushothaman, Kandathazhathu, Nigarathil House, Perumbalam.P.O., Sherthalai. - Respondents

M/s MK Damodaran, PV Mohanan & KS Saira - Counsel for the applicant

Mr PV Madhavan Nambiar, SCGSC - Counsel for the respondents 1 to 3

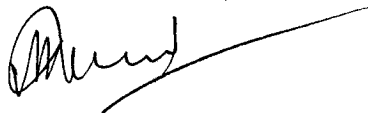
Mr PV Mohanan - Counsel for the respondent-4

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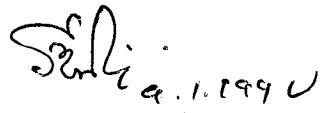
(SHRI S.P.MUKERJI, VICE CHAIRMAN)

We have heard the learned counsel for both the parties
on this application in which the applicant has prayed
that his services as Extra Departmental Delivery Agent,
Perumbalam.P.O. should not be terminated and he should

also be considered for regular appointment to the post even though his name was not sponsored by the Employment Exchange. The learned counsel for respondents Shri PV Madhavan Nambiar, SCGSC appeared and indicated that the selection made for the post without considering the applicant has since been rescinded/and the respondents will be prepared to continue with the applicant in the post of EDDA till a regular appointment is made. Since the selection has already been cancelled, we close this application with the direction that the applicant should also be considered for regular appointment to the post, even though his name has not been sponsored by the Employment Exchange, if he is otherwise eligible for such consideration. Till a regular appointment is made on the basis of such a selection, the applicant should be taken back to the post and continued till then. There will be no order as to costs.



(A.V. HARIDASAN)
JUDICIAL MEMBER



(S.P. MUKERJI)
VICE CHAIRMAN

9-1-1990

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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 18-1-1990

PRESENT

HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN
&
HON'BLE SHRI A.V.HARIDASAN, JUDICIAL MEMBER

CONTEMPT OF COURT PETITION No.13/89 in
ORIGINAL APPLICATION NO.337/89

N.Manmadan - Petitioner
V.

1. Sub Divisional Inspector of Post Offices, Sherthalai.
2. Senior Superintendent of Post Offices, Alleppey.
3. Union of India, represented by the Secretary, Ministry of Communication, New Delhi.
4. District Employment Officer, Alleppey. - Respondents

Mr MK Damodaran - Counsel for the petitioner

Mr PV Madhavan Nambiar, SCGSC - Counsel for the respondents

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(SHRI A.V.HARIDASAN, JUDICIAL MEMBER)

In this application, the applicant in the original application ^{has} moved the Tribunal for initiating action against the respondents for contempt of Court. The facts in brief are as follows.

2. The applicant was working as provisional Extra Departmental Delivery Agent in the Perumbalam Post Office. When the Department was taking action for filling up the post on a regular basis making the selection from candidates

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sponsored by the Employment Exchange without considering him for the post, he filed the original application and made a prayer for an interim relief for considering him also for selection to the post on a regular basis. This Tribunal on 9.6.1989 issued an interim order as follows:

"In so far as the interim relief is concerned, the learned counsel for the applicant states that the candidates sponsored by the Employment Exchange are being interviewed on 11.6.1989 but the applicant who is a working Extra Departmental Agent has not been called for interview. Accordingly we direct that the applicant should also be interviewed provisionally but the results of the interview should not be announced until further orders".

The applicant has in this application averred that though on 11.6.1989 he handed over a copy of the above order to the Sub Divisional Inspector of Post Offices (the first respondent) and requested him to interview him also, the first respondent refused to interview him stating that unless he received a copy of the order directing the Tribunal, he would ^{not} interview the applicant ^{though} on 12.6.1989 ^{has} and that he gave the first respondent a letter from his Advocate with a copy of the interim order of the Tribunal and requested him not to announce the results of the interview, he did not agree to abide by the order on the ground that he had not received any communication from the Court. The applicant ^{has} further averred that contrary to the direction contained in the interim order of the Tribunal dated 9.6.1989, the first respondent, had against the usual practice, come to the Perumbalam

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Post Office, written an order appointing one .

Mr Purushothaman, who was interviewed on 11.6.1989 as EDDA, Perumbalam stating that he was selected in the interview, ^{and} handed over the appointment order to the above said Purushothaman who had as per the instructions from the first respondent come there. According to the applicant, these actions of the first respondent constitute wilful violation of the directions of the Tribunal and that it is a fit case where action has to be taken against him for contempt of ~~xxxx~~ ⁱⁿ proceedings of the Tribunal.

3. The respondents have filed a reply statement and also a reply affidavit sworn by the first respondent. ⁱⁿ It has been contended in the statement and /the affidavit that a copy of the interim order of the Tribunal was received by the first respondent only on 15.6.1989 by post, that until then the first respondent was unaware of the interim order and that the averment in the application that the applicant had showed a copy of the interim order to the first respondent and had on 12.6.1989 given a copy of the order and a letter from the Advocate are not true to facts. It has been further averred that if the first respondent had known that the Tribunal had passed the interim order, he would not have acted against it. The first respondent has however, expressed regret and prayed for pardon if the circumstances of the case indicated that he had acted in disregard of the order of the Tribunal while in fact he had absolutely

no intention to do so. It has also been stated that on receipt of the interim order, the appointment of Purushothaman has been cancelled.


4. We have heard the learned Senior Central Government Standing Counsel who represented the respondents and have carefully gone through the records.

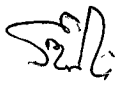
5. It appears highly improbable that the applicant who had received a copy of the interim order on 9.6.1989 would not have shown the same to the first respondent on 11.6.1989 because having taken all the trouble and having incurred heavy expenses for filing the application before this Tribunal, it is unlikely that he would not show the order to the first respondent and requested him to have him also interviewed. But the first respondent has denied the allegation that the applicant showed him the order of the Tribunal. We are not fully convinced that the first respondent has acted against the terms of the interim order because he was ignorant of the existence of such an order. But in view of the regret expressed by the first respondent in his affidavit and his prayer for pardon in case the circumstances of the case had created an impression that he had committed contempt of the proceedings of the Tribunal, we refrain from taking any action against him for contempt. It is made known that the Tribunal will see that its orders are implemented and that any person bound to obey the order will be seriously dealt with if the orders are not obeyed strictly. For the time being we are of the view that the matter may be left there especially on the assurance of

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the Learned Senior Central Government Standing Counsel that the applicant, whose services have been terminated would be immediately taken back to his post and that he would also be considered for regular selection as the selection made pursuant to the interview dated 11.6.1989 has already been cancelled in view of the interim order passed by this Tribunal.

6. In the circumstances taking note of the regret expressed by the first respondent in his affidavit and his prayer for pardon, if the circumstances created an impression that he had acted in violation of the ^{due d/o} Court in the Tribunals order, the fact that the selection made on the basis of the interview held on 11.6.1989 has been cancelled and in view of the submission of the learned Senior Central Government Standing Counsel that the applicant would be taken back to his post forthwith and that he would be considered for regular selection, we drop the proceedings and discharge the notice of contempt. There will be no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER

 18.1.90
(S.P. MUKERJI)
VICE CHAIRMAN

18-1-1990

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