

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.365/2002

Tuesday this the 3rd day of September, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

A.Sasidharan, Sorting Assistant,
Office of the Head Record Officer,
Railway Mail Service,
Trivandrum Division, Department of Posts,
Thiruvananthapuram.

...Applicant

(By Advocate Mr. NN Sugunapalan)

v.

1. Director of Postal Services,
Office of the Chief Post Master General,
Thiruvananthapuram.

2. Senior Superintendent,
Railway Mail Service,
Trivandrum Division, Trivandrum.

3. Head Record Officer,
Railway Mail Service, Trivandrum Division,
Trivandrum.l.

4. Union of India, represented by the
Secretary, Department of Posts,
Ministry of Communications,
Govt. of India, New Delhi.

..Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 3.9.2002, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, Sorting Assistant in the office of
the Head Record Officer, RMS Trivandrum Division has filed
this application challenging the order dated 7.1.2002 of the
second respondent transferring him to SRO, Kollam as also
Anenxure.A4 order dated 4.5.02 by which the applicant is
directed to be relieved. It is alleged in the application
that as he has been elected as the Finance Secretary of the
National Union of RMS and MMS Employees Class III,
Trivandrum Division, Kerala Circle in the meeting held on
8.7.2001 for the years 2000-2002 he is immunoed from transfer

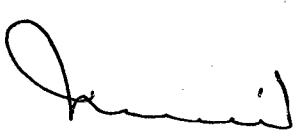
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and therefore the impugned orders are not sustainable.

2. The respondents in their reply statement contend that there has been an election dispute with two panels one headed by S.Hemachandra Kumar and the other headed by Philip Mathew, that a suit is pending in the Munsiff Court, Trivandrum regarding the validity of the panel, that the applicant has been expelled from the membership of the Union by the Circle Secretary by Annexure.R.6 order and that in terms of the guidelines contained in the R.4 O.M. of the Government of India, Ministry of Communication normal facilities are not available in case a dispute arises regarding the election and therefore, the applicant is not entitled to the immunity from transfer as claimed by him.

3. On a careful scurtiny of the entire pleadings and materials on record and on hearing the learned counsel on either side, we are convinced that the respondents are within their rights to deny the normal facility of immunity from transfer otherwise available to office bearers since there is an election dispute which is pending admittedly before the Munsiff Court, Trivandrum as is evident from Annexure.A5 and other materials available on record. It is also seen that the applicant has been expelled from membership of the Union by the Circle Secretary by Annexure. R.6. Under these circusmtances, the applicant not being an office bearer who is entitled to the immunity from transfer, the impugned orders are perfectly valid and justified. The application, therefore fails and the same is dismissed leaving the parties to bear their own costs.

Dated the 3rd day of September, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

APPENDIX

Applicant's Annexures:

1. A-1: True copy of list of elected members of the office bearers of National Union of RMS & MMS Employees - Class III.
2. A-2: True copy of Order No.B-38(a) dated 7.1.2002 issued by the 2nd respondent to the applicant.
3. A-3: True copy of representation dated 10.1.2002 submitted by the applicant before the 1st respondent.
4. A-4: True copy of Communication No.OA.1/Transfer -Posting/HRO/02 dated 4.5.2002 issued by the 3rd respondent to the applicant.
5. A-5: True copy of the letter dated 12.1.2002 issued by the Divisional Secretary of the Union.
6. A-6: True copy of the letter dated 8.5.2002 issued by the Divisional Secretary of the Union.
7. A-7: True copy of the representation submitted by the elected members of the Union to the Chief Postmaster General.
8. A-8: True copy of the letter dated 27.5.2002 issued by the Chief Postmaster General's Office.
9. A-9: True copy of the letter dated 8.7.2002 issued by the outgoing Divisional Secretary of the Union.

Respondents' Annexures:

1. R-1: True copy of transfer order dated 10.8.99 under Union facility.
2. R-2: True copy of transfer order dated 4.9.2000 under Union facility.
3. R-3: True copy of list of Office bearers headed by Philip Mathew as President of Union for 2001-2002.
4. R-4: True copy of letter No.10.9(A)/98 SR dated 5.11.99 issued by the Dept. of Posts.
5. R-5: True copy of Judgement dated 4.9.2001 of Hon'ble High Court of Kerala.
6. R-6: True copy of Notice dated 4.10.2001 issued by Circle Secretary of Union.
