

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 375/2003

Wednesday this the 18th day of June, 2003.

C O R A M

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

K.P.Choyikutty
S/o Late K.P.Theyyan
Deputy Supdt. of Post Offices
Calicut Division
Calicut.
Residing at Smitha Nivas
Near Makool Peedika
Post Nadakuthazha
Badagara 673 112.

Applicant

(By advocate Mr.T.C.Govinda Swamy)

Versus

1. Union of India rep. by
The Secretary to the Government of India
Ministry of Communications,
Department of Posts
New Delhi.

2. The Chief Post Master General
Kerala Circle, Trivandrum.

3. Sri C.P.George
Assistant Post Master General (Adhoc)
Postal Life Insurance Section
Office of the Chief Post Master General
Trivandrum.

4. K.Manoharan
Senior Superintendent of Post Offices (Adhoc)
Palakkad Division
Palakkad.

Respondents.

(By Advocate : Mr.C.Rajendran, SCGSC)

The application having been heard on 18th June, 2003, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, a Deputy Superintendent of Post Offices, Calicut Division, has filed this application impugning A-2 memo dated 4.3.2003 by which the second respondent has informed the applicant of the proposal to take action against him under Rule 16 of CCS (CCA) Rules, 1965 enclosing therewith a statement of imputations of misconduct or misbehaviour against him. It is

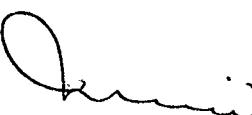
alleged in the application that the incident on the basis of which the memo has been issued having taken place 5 1/2 years ago and as the statement of imputations has not been signed by the disciplinary authority and as many persons involved in similar inspectorial lapses for the period prior to the joining of the applicant have not been proceeded against, the whole matter is vitiated by legal malafides as the memo has been issued at a time when the applicant has sought promotion on adhoc basis. Though the SCGSC took 3 adjournments for getting instructions and filing reply statement, as on today no statement has been filed.

2. We have heard the learned counsel of the applicant and the learned SCGSC on the question of admission. The impugned memorandum contains a proposal for proceeding under Rule 16 of the CCS (CCA) Rules for imposing on the applicant a minor penalty. It is indicated in the memo that on receipt of the memo, the applicant is free to make any explanation and any such explanation would be considered and appropriate orders would be passed by the competent authority. The argument of the learned counsel of the applicant that the statement of imputations not being signed, A-2 memo is invalid and, therefore, no proceedings on that basis can be taken, does not appear to have any merit at all. The requirement of Rule 16 of CCS (CCA) Rules is that the government servant shall be informed of the proposal and of the statement of imputations of misconduct or misbehaviour. This has been done by the second respondent.

3. The further ground of the applicant that the memo has been issued on the basis of certain incidence which took place during 1997 is stale and that the departmental proceedings have been

malafide initiated against the applicant has also no merit at all. That the previous supervisory officials had not been proceeded against is also not a valid reason why the applicant should not be proceeded against. When the lapses on the part of the applicant having come to light, it is for the competent authority to take action unless there is a long delay which is not explained or intentional. The applicant has got an opportunity to point out the delay especially in his explanation in reply to A-2 which the respondent No.2 would naturally consider. Though respondents 3 & 4 who are junior to the applicant in the feeder grade have been impleaded, we do not consider that they are necessary parties to these proceedings. On the whole, on a consideration of the entire facts and material and in the light of what is stated above, we do not find any valid cause of action for the applicant at this juncture to assail the memo issued under Rule 16 of the CCS (CA) Rules. Therefore, this application is rejected under Section 19 (3) of the Administrative Tribunals Act, 1985. Regarding the claim of the applicant for promotion, it is an entirely different cause of action. The applicant is free to seek relief separately in that behalf.

Dated 18th June, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

aa.


A.V. HARIDASAN
VICE CHAIRMAN