

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 376 of 2003

Thursday, this the 16th day of October, 2003

CORAM

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

1. T.R. Aravindaksha Pillai,
Cashier-cum-Checker,
Sub Record Office,
Kayamkulam.Applicant

[By Advocate Mr. Thomas Mathew]

Versus

1. Senior Superintendent,
Railway Mail Service, TV Division,
Trivandrum.

2. Chief Postmaster General,
Kerala Circle, Trivandrum.

3. Union of India, represented by its
Secretary, Department of Posts,
New Delhi.

4. M.V. Balan,
Senior Superintendent,
RMS, TV Division, Trivandrum.

5. S. Sajumon,
Sorting Assistant, Sub Record Office,
RMS, TV Division, Quilon.Respondents

[By Advocate Mr. M. Rajeev, ACGSC (R1 to R3)]

The application having been heard on 16-10-2003, 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 Sorting Assistant (TBOP), was by order dated 31-10-2002 (Annexure A2) transferred and posted from the post of Sorting Assistant (TBOP), Sub Record Office, RMS 'TV' Division, Kayamkulam to Cashier-cum-Checker, Sub Record Office, Kayamkulam for a tenure or until further orders. His grievance is that, before completion of the tenure of 4 years, by the impugned order dated 30-4-2003 (Annexure A3) the 5th

respondent, Sorting Assistant, SRO, Kollam has been transferred to his place and he has been transferred to the post of Sorting Assistant (TBOP), SRO, Kayamkulam. It is alleged in the applicant that removal of the applicant from the post of Cashier-cum-Checker before he completed the tenure of 4 years and without giving him an opportunity by notice is violative of the principles of natural justice and done malafidely. With these allegations, the applicant has filed this application seeking to set aside the impugned Annexure A3 order.

2. When the application came up for hearing, there was an interim order staying the operation of the impugned order. Respondents 1 to 3 have filed the reply statement and an additional reply statement.

3. Transfer of the applicant from the post of Cashier-cum-Checker to that of Sorting Assistant (TBOP) to Kayamkulam has been sought to be justified by the respondents on the ground that according to the instructions the post of Cashier-cum-Checker has to be filled by appointing Sorting Assistants/Postal Assistants with 5 years of service and only in the absence of such incumbents, TBOP Postal Assistants/Sorting Assistants are to be appointed. As the 5th respondent had a preferential claim, but he was not relieved from Kollam when Annexure A2 order was issued on account of administrative constraints, in terms of the instructions issued by the superiors he was later appointed by the impugned order as Cashier-cum-Checker and this action is perfectly in order and does not visit the applicant with any adverse civil consequence.

4. We have perused the materials placed on record and have heard Shri Thomas Mathew, learned counsel of the applicant and Shri M.Rajeev, learned ACGSC appeared for the official

respondents. Shri Rajeev also made available for our perusal the file which lead to the posting of the applicant as Cashier-cum-Checker overlooking the claim of the 5th respondent. It is seen that at that point of time owing to scarcity of Sorting Assistants in Kollam, the 5th respondent could not be spared to be posted as Cashier-cum-Checker. Now that the situation has become better and the superior claim of the 5th respondent had to be respected, the applicant has been transferred back to the post of Sorting Assistant (TBOP), SRO, Kayamkulam and the 5th respondent was posted there. We find that there is absolutely no injustice done to the applicant, though he would not continue to get the additional financial benefit attached to the posting. However, that is not a legitimate grievance requiring legal remedy. Since for administrative exigencies the 5th respondent was not posted as Cashier-cum-Checker when Annexure A2 order is issued, when the situation has become more viable, preference to the posting of the 5th respondent as Cashier-cum-Checker had to be given. Since no legal right of the applicant has been infringed and even by Annexure A2 when he was posted as Cashier-cum-Checker "until further orders" there is absolutely no infirmity with the impugned orders justifying judicial intervention.

5. In the result, the Original Application is dismissed.
No order as to costs.

Thursday, this the 16th day of October, 2003


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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