

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 376

1990

DATE OF DECISION 25-10-1990

K.S. Mohanan Applicant (s)M.P. Krishnan Nair Advocate for the Applicant (s)

Versus

Secretary, Ministry of Communications, New Delhi and 2 others Respondent (s)TPM Ibrahim Khan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ↗
3. Whether their Lordships wish to see the fair copy of the Judgement? ↗
4. To be circulated to all Benches of the Tribunal? ↗

JUDGEMENTN.V. Krishnan, Administrative Member

The applicant was employed as EDBPM in Narianganam Post Office. Disciplinary proceedings were initiated against him which culminated in his removal from service by the Annexure-K order dated 24-5-1985. The appeal preferred by him to the Director of Postal Services, Cochin Region, Cochin was also dismissed on 9-12-1985.

2. It is stated by the applicant that as he was seriously ill from January 1986 to February 1988, he

could not initiate any action against these impugned orders. After recovery from illness, he claims to have submitted a representation dated 18-2-1988 to the Minister of Communications. By Annexure-M reply dated 30-10-1988, the third respondent returned the petition to him stating that he should address the petition to the Post Master General, Kerala Circle, Trivandrum. Accordingly, he has addressed a communication styled as 'appeal' to the Post Master General on 3-11-1988 (Annexure-N) which is stated to be pending.

3. The applicant has prayed for the following reliefs:

- i. To issue a writ of mandamus or any other appropriate writ or order declaring that the finding of the Enquiry officer Annexure-J the punishment of the disciplinary authority, Annexure-K and the rejection of the appeal Annexure-L are highly illegal, arbitrary, malafide in nature and ab-initio void and unsustainable and the applicant is entitled to be reinstated in service with full backwages and all other benefits.
- ii. To issue a writ of mandamus or any other appropriate writ directing the respondents to appoint the applicant in service forthwith as EDBPM and allow him to continue in service without any break and give him the entire backwages and all other monetary benefits.
- iii. To issue any other writ of mandamus or any other appropriate writ directing the respondents to act according to law

4. When the application was admitted, the issue of limitation, was kept open. When the case came up for hearing today, the issue of limitation was considered. The learned counsel for the applicant made certain submission in this behalf on the basis of his additional affidavit. He further submitted that so far as the 'appeal' made to the PMG by Annexure-N is concerned there is no question of limitation as it is to be treated as an application for a suo motu review under rule 16 of the Extra Departmental Delivery Agents (Conduct & Service) Rules (Rules for short) and that 'appeal' is still pending. It was urged that it would be in the interest of justice to direct the Post Master General, Trivandrum (respondent-2) to dispose of the 'appeal' even though such a specific prayer has not been made in the reliefs claimed by him.

5. We have heard the counsel for the respondents, Shri TPM Ibrahim Khan, ACGSC. It is submitted by him that the Annexure-N appeal does not appear to be actually addressed to the Post Master General, Kerala Circle, Trivandrum, because in the copy of the application served on the respondents, the Annexure-N document is seen to be addressed to Shri 'K.P. Unnikrishnan, Minister of Communications'. However, considering the fact that there is a reply given to the applicant at Annexure-M dated 31-10-1988, disposing of the

petition dated 18-2-88 addressed to the Minister of Communications stating that he may address the petition to the Post Master General, Trivandrum, we are of the view that it is not unlikely that the applicant would have submitted the 'appeal' Annexure-N dated 3-11-1988 to the Post Master General, Kerala Circle, Trivandrum, even though the letter may not have received it.

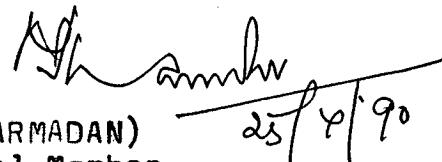
6. In these circumstances, we feel that for, the present, it is not necessary to decide the question of limitation with reference to the dates on which the ~~14-5-85 & 9-12-85 especially~~ impugned disciplinary and appeal orders were passed. The applicant states that the Annexure-N is still pending with the Post Master General, Trivandrum. Admittedly, Rule 16 does not impose a limitation of time for review by either the Central Government or the Head of the Circle. It will, therefore, be sufficient if we permit the second respondent to consider treating the Annexure-N communication as a request made under Rule 16 to invoke ~~such~~ his suo motu power ~~by~~ review and pass suitable orders thereon as he consider fit, in accordance with law, even though he may not have formally received the 'appeal' directly from the applicant. Accordingly, we issue such direction and further direct the second respondent to inform the applicant of the decision he has taken in the

h/

...../

matter, within three months from the date of receipt
of this order.

There will be no order as to costs.


(N. DHARMADAN)
Judicial Member

25/10/90


(N.V. KRISHNAN)
Administrative Member

25th October, 1990.

ganga.