

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Dy No.2013/93

O. A. No. 384 / 1993.

DATE OF DECISION 1-3-1993

K Sudhakaran Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus
The Assistant Superintendent
(Telegraph Traffic) Central Respondent (s)
Telegraph Office, Tirur and
another

Mr George CP Tharakan, SCGSC Advocate for the Respondent (s)
rep. by Mr Ajit Prakash.

CORAM :

The Hon'ble Mr. SP Mukerji, Vice Chairman
and

The Hon'ble Mr. AV Haridasan, 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?

JUDGEMENT

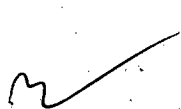
Shri AV Haridasan, J.M

The applicant has impugned the order dated 25.2.1993 at Annexure-I by which Respondent-1 has informed him that the order of his transfer and posting to outdoor duty dated 21.12.92 would be made effective from 1.3.1993. The applicant claims that as a senior person he is entitled to be allowed to work as Telegraphman(indoor) ~~xxx~~ while he was by order dated 21.12.92 posted at Telegraphman(Outdoor). On his representation, the SSTT had directed the ASTT to cancel that posting and on the basis of that direction the order was cancelled by the Respondent-1 on 30.12.92. Now the impugned order has been issued by Respondent-1 purportedly on the basis of a clarification received by him from

SSTT vide letter dated 18.2.93 and after discussion with the Secretaries of Class IV and Class III Unions. Before the impugned order was issued, suspecting that such action was in progress, the applicant had made a representation dated 27.1.93 at Annexure-VI before Respondent-2 which has not been disposed of by him. But as the applicant has been posted to outdoor and has been directed to implement the order of posting immediately, the applicant has filed this application for setting aside the impugned at Annexure-I.

2 The Senior Central Government Standing Counsel taking notice of the application opposed the admission of the O.A. and submitted that as it was within the competence of the Respondent-1 to deploy the applicant as Telegraphman(Outdoor), there is no scope for judicial intervention in the matter.

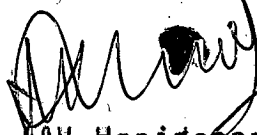
3 Having heard the counsel on either side we feel that this is a matter on which the Respondent-2 (SSTT) should bestow his attention and issue appropriate orders taking into account the administrative exigencies and the smooth functioning of the service. It is especially so because the first order deploying the applicant to work as outdoor was cancelled by the order of the ASTT, Respondent-1 dated 30.12.92 at Annexure-V on instruction by the Respondent-2. If the SSTT had given the ASTT the liberty to deploy officials, there would not have been anything objectionable in doing so. But normally instead of reviving the order which was cancelled, the ASTT would have

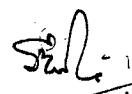


issued a fresh order. Whatever that may be, we are not inclined to go into the merits of the decision which we leave to the Respondent-2 to consider in accordance with law.

4 Therefore, we admit the application and dispose it of with direction to Respondent-2 to consider and dispose of the representation submitted by the applicant on 27.1.93 at Annexure-VI within 2 weeks from the date of receipt of a copy of this order, in accordance with law. We make it clear that the applicant would be bound by the decision taken by Respondent-2. Till such time the decision taken by the second respondent and the order communicated to the applicant, we direct that the applicant shall be allowed to continue in his present assignment as Telegraphman(Indoor).

5 There will be no order as to costs.


(AV Haridasan)
Judicial Member


1-3-93
(SP Mukerji)
Vice Chairman

1-3-1993