

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.385/93

Tuesday, this the first day of February, 1994.

**SHRI N DHARMADAN, MEMBER(J)**

**SHRI S KASIPANDIAN, MEMBER(A)**

VV Simon,  
Mailman, Head Record Office,  
RMS EK Division, Kochi-16. - Applicant

By Advocate Mr KS Babu

Vs.

1. Union of India represented by  
Secretary to Government,  
Ministry of Communication,  
Secretariat, New Delhi.
2. The Chief Post Master General,  
Trivandrum.
3. The Senior Superintendent,  
RMS(EK) Division,  
Ernakulam.
4. The Head Record Officer,  
HSG Grade-I,  
RMS EK Division, Kochi-16. - Respondents

By Advocate Mr Mathew G Vadakkal, ACGSC

O R D E R

**N DHARMADAN, MEMBER(J)**

Applicant is at present working as Mailman in the Head Record Office, RMS Division, Kochi. He is aggrieved by the denial of regularisation as Mailman with effect from 31.8.1979 and consequential benefits.

2. The applicant was placed under put off duty from 1.4.1978. This period was treated as break in service. But this break in service was condoned considering his representation and an order Annexure-IV dated 25.5.1981 was passed declaring his candidature for the Mailman examination on 26.8.1979 as regular. Thus he was declared as qualified

Mailman candidate in the test held on 26.8.1979. He was successful in the test and under the above declaration, according to him, he is entitled to a further declaration for regularisation of his service as Mailman with effect from 31.8.1979 with all consequential benefits.

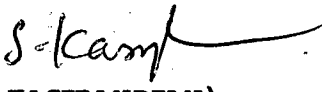
3. The only objection raised by the respondents is that after Annexure-IV, the applicant did not file any representation raising this issue. He kept quiet for a long time without filing any representation for getting the benefit of regularisation in service from 31.8.1979 in terms of Annexure-IV. The first representation filed by him in this behalf is Annexure-V and it is dated 3.2.1992. Hence according to the respondents, there is no merits in the OA and it is only to be rejected.


4. Having heard the learned counsel on both sides, we are of the view that the contention of the respondents cannot be sustained. Considering the applicant's request, the Head Record Officer, RMS Division passed Annexure-IV order on 25.5.1981 condoning his break in service from 1.4.1978 to 7.8.1978 and declaring his selection as Mailman as regular and valid. Even though the applicant was allowed to set for the test, his result was withheld on account of break in service. But by a subsequent order, his disqualification was removed. When the break in service has been condoned regularising his selection as Mailman, the legal consequence would be that applicant can be treated as regular Mailman without any disadvantage or disqualification. The disadvantage or other impediment, if any, in the way of the applicant for getting regular promotion as Mailman on account of Annexure-I order of the same authority dated 18.8.1979 has been wiped off. For all service purpose the applicant has to be deemed as a person having continuous service, as if there was no break in service in the light of the subsequent order, Annexure-IV which was also passed by the same authority. It is the duty of the respondents to pass consequential order after Annexure-IV even without any request or representation from the applicant in this behalf. Hence we see no substance in the contentions raised by the respondents to reject the claim of the applicant.

5. In the light of Annexure-IV, we are of the view that the applicant's service has to be regularised and he should be treated as a Mailman having continuous service from the date of original appointment to that post with all consequential benefits.

6. In the result, we allow the application and declare that the applicant is entitled to be regularised as a Mailman with effect from 31.8.1979 with all consequential benefits, if the applicant is otherwise eligible and qualified for the same. This direction shall be complied with within a period of four months from the date of receipt of a copy of this order.

7. The OA is allowed as above. No costs.

  
(S KASIPANDIAN)  
MEMBER(A)

  
(N DHARMADAN)  
MEMBER(J)

TRS