

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
~~XXXXXX~~

412/89 1989

DATE OF DECISION

28.6.90

T.S Velayudhan and 8 others Applicant (s)

M/s. M.Ramachandran Advocate for the Applicant (s)
P.V Abraham, Paulson C.Marghese &
P.Ramakrishnan Versus
Director of Postal Services, Respondent (s)
Calicut Region ,Calicut -31 and 2 others

Mr V.V Sidharthan, ACGSC Advocate for the Respondent (s)
Mr. C.Kochunni Nair, ACGSC

CORAM:

The Hon'ble Mr. S.P MUKERJI, VICE CHAIRMAN

&

The Hon'ble Mr. N.DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

The applicants are working as Postal Assistant in the Trichur Division. They have been penalised under FR 17-A by awarding break in service for their participation in the illegal strike held on 19.9.1984. They were due to cross Efficiency Bar to the stage of Rs.308/- in the pre-revised scale of pay of Rs.260-8-300-EB-8-340-10-360-12-420-EB-12-480 on the dates mentioned below:

1. T.S Velayudhan(1st applicant)	.. 1.8.1985
2. C.K Sivaraman	.. 1.5.1985
3. K.A Ayyappan	.. 1.1.1986
4. M.Prabhakaran	.. 1.8.1985
5. E.S Chandrapalan	.. 1.8.1985
6. K.K Sankaran	.. 1.8.1985
7. C.V Madhusoodanan	.. 1.8.1985
8. K.A Sadhumathy	.. 1.4.1985
9. T.R Parvathy	.. 1.2.1985

2. But they were not permitted to cross the EB on the plea that there is break in service because of invocation of FR 17-A by the 3rd respondent. A true copy of the order denying crossing of Efficiency Bar issued to the first applicant by the third respondent on 16.12.1985 is produced at Annexure-1. Others were also given identical orders. The applicants have objected to the same and submitted representations. But they were rejected. Annexures III and IV are orders issued to applicant Nos.5 and 6. Others were also given similar orders. They have also submitted appeals against the same. But the appeals were also dismissed as time barred.

3. The applicants produced Annexure -IX order dated 1.7.1988 issued in favour of one Shri K.Narayanan, Postal Assistant working at Ottapalam, who also participated in the same strike resulting in the same penal consequence, but his appeal filed against the order invoking F.R 17-A was allowed and he was given the benefit of crossing the Efficiency Bar at the stage of Rs.308/- in the pay scale of Rs.260-480 (pre-revised) with effect from 1.8.85.

4. The limited prayer of the applicants is that they may also be given similar benefit which has been granted to Shri Narayanan in Annexure IX order passed

by the second respondent.

5. At the time of hearing, the learned counsel appearing for the applicant brought to our notice a decision rendered by this Bench, in which one of us (Shri S.P Mukerji, Vice-Chairman) was a party, and contended that identical question was considered in that case and passed the following order:-

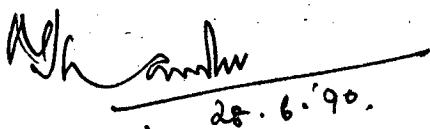
"The main contention of the applicant is that others who had also participated in the strike and in whose cases also the period of absence as treated as 'dies non' have been allowed to cross the Efficiency Bar on the due dates. The respondents' contention is that those officials who had been allowed to cross the Efficiency Bar in spite of the participation in the strike were allowed to cross the Efficiency Bar because they had not been informed about the decision that they had not been allowed to cross the Efficiency Bar. We are not impressed by this argument because in case of the applicant also, as has been stated earlier, he was not informed about his not being allowed to cross the Efficiency Bar until he had represented on 5.11.85 and he was informed thereafter on 8.11.85. We are impressed by the argument of the learned counsel for the applicant that in accordance with Rule 270 of P&T Manual, crossing of Efficiency Bar can be stopped only when one is not found to be fit for holding the post. Not allowing the crossing of Efficiency Bar cannot be imposed a matter of punishment as a consequence of participation in a strike."

6. We have perused the judgment and asked the learned counsel appearing on behalf of the respondents whether he is disputing the same. He neither disputed the same nor distinguished the facts on the ground that the aforesaid decision would not apply to the facts of this case.

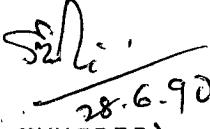
7. Hence we are of the view that this case is covered by the above decision of this Tribunal. Accordingly we allow the application and declare that the orders passed

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against the applicants barring their increment on the basis of F.R 17-A due to their participation in the strike held on 19.9.84 as not sustainable and direct that they should also be allowed to cross the Efficiency Bar with effect from the respective dates shown against them as indicated above with all consequential benefits. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER

28.6.90


(S.P. MUKERJI)
VICE CHAIRMAN

28.6.90

n.j.j