

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No.180/00031/2020

Thursday, this the 10th day of September, 2020

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

Tom Antony, aged 29 years

S/o N.T.Antony

Residing at Naduvathettu (H),

Arpookara East P.O.,

Kottayam District-686 008.

Applicant

(Advocate: Mr.V.Sajithkumar)

Versus

1. Union of India represented by the Secretary
to the Government of India,
Director General of Posts, Department of Posts,
Ministry of Communication,
Sanchar Bhavan, New Delhi-110 011.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum-695 033.
3. The Senior Superintendent of Post Offices,
Kottayam Division,
Kottayam P.O.-686 001.
4. The Senior Superintendent of Post Offices,
Ernakulam Postal Division,
Kochi P.O.-682 011.
5. The Superintendent of Post Offices,
Idukki Division, Thodupuzha P.O.-685 584.
6. The Superintendent of Post Offices,
Changanassery Division,
Changanassery P.O.-686 101

Respondents

(Advocate: Mr.N.Anilkumar, ACGSC)

This OA having been heard on 26th August, 2020, the Tribunal delivered the following order on 10.09.2020:

ORDER

P.Madhavan, Judicial Member

This is an OA filed by the applicant seeking the following reliefs:

(I) *Quash Annexure A1 and A5.*

(ii) *Direct the respondents to reserve 4% of the sanctioned strength of GDS vacancies in favour of persons with disability and to accommodate the applicant against the vacancy of BPM available at Punnathura West or as a BPM in any of the nearby vacancies.*

2. In short, the case of the applicant is that he is a person having locomotor disability and he is eligible to be appointed as GDS BPM in the quota earmarked for PWD (Person with Disability). The respondents had issued a notification for selection for GDS BPM showing the post for PWD in Kottayam District. The applicant is having a certificate issued by the Standing Disability Assessment Board and is eligible for appointment under PWD quota. He is also having an identity card issued by the Social Welfare Department showing his disability. He is having 50% disability and comes under PWD (C) category. He had submitted an application in on-line mode for general category vacancies to the post of BPM at Arpookkara East, Kollad and Thiruvanchoor and for the post of GDS at Malloosserry and Thazhathangadi. According to him, 26 vacancies are reserved for PWD(C) category out of the total 2086 vacancies. On seeing the vacancy position of PWD(C) at BPM Punnathura West, he submitted a request to the 2nd respondent to consider his application to the post earmarked for PWD (C) at Punnathura. His request for consideration for the post at Punnathura was rejected by the 2nd respondent stating that no change can be permitted after submission of online application. The impugned order is produced as Annexure A5. According to the applicant, he is eligible to be considered for the vacancies near to his home. He also alleges that the respondents had not complied with the direction contained in

Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995 and the Rights of Persons with Disabilities Act, 2016. As per Section 3 of the Persons with Disabilities Act, not less than 3% of vacancies are to be reserved for persons or class of persons with disabilities. As per the Rights of Persons with Disabilities Act, 2016, not less than 4% of vacancies are to be kept apart for persons with benchmark disabilities. So he prays for the reliefs stated in the OA.

3. After the filing of the OA, the applicant had filed an MA seeking to accommodate him in the vacancy of BPM at Arpookara East or not to fill up the post until his claims are considered.

4. The respondents entered appearance and filed a detailed objection to the MA filed by the applicant.

5. When the matter came up for consideration, both sides represented that the matter can be finally disposed of on the basis of submissions made by both sides. So we have taken the OA itself for consideration.

6. The case of the respondents is that the applicant in this case is an outsider and he is not engaged by the Department of Posts. According to them, recruitment to the post of BPM is now carried out in an online process. Notification for filling up the vacant post of Branch Post Masters, Assistant Branch Postmasters and Dak Sevaks was issued as per Annexure A1. The Kottayam Division had 21 vacancies in the category of BPM. As per the direction of the Directorate, 4% of vacancies was reserved for persons with disabilities. So one post of BPM was reserved for PWD. The vacant post of BPM, Punnathura West was reserved for PWD (C) category in the GDS online recruitment cycle II. According to the respondents, the applicant Sri Tom Antony had not applied for the post within the prescribed time limit of online application. The recruitment was fully online and he had to apply

within the prescribed time limit. According to them, one eligible candidate under PWD category was selected for the post of BPM Punnathura West. Since the applicant in this case had failed to apply online to the PWD(C) category for the post of BPM Punnathura, he is not eligible to be considered for appointment. He had given a representation on 9.11.2019 and he was informed of the above objection as per Annexure A5. The post of BPM Punnathura is already filled up with an eligible PWD candidate. They also submitted that the post of BPM Arpookkara East which is mentioned in MA No.268 of 2020 is not a post reserved for PWD candidate and it comes under the UR category, so no relaxation can be possible and the applicant's claim cannot be considered for the said post. It would also violate the reservation roster of BPM. Only one post is set apart for PWD category and there is no other vacancy available for PWD. Hence there is no merit in the OA.

7. Both sides are heard. We have gone through the pleadings and various documents annexed along with the OA. On a perusal of the pleadings, we find that the applicant has himself admitted that he had given the application under UR category and it is also admitted that the application was filed by online method. After the filing of the online application, the applicant had given a representation on 9.11.2019 for considering him as a PWD candidate for the post of Punnathura BPM. Since the application was filed through online and the time was over, the respondents had rejected the said representation on the above basis. When there is a PWD (C) category vacancy, it is the duty of the applicant to apply for the vacant post instead of applying for the UR category. The written reply given by the respondents clearly shows that Kottayam District had only 21 vacancies of BPM and only one vacancy is set apart for PWD (C) category and that was Punnathura West. It has come out that one person is already appointed in the PWD category for

the said post and there is no PWD vacancy existing in Kottayam District. The applicant in this OA has filed another MA stating that he may be considered for the post of BPM Arpookkara which is now under the UR category. So his above request also cannot be considered.

8. There is no merit in the contentions raised by the applicant in this case. We find no illegality or arbitrariness on the part of the respondents. So the OA is devoid of merit and it is liable to be dismissed. Accordingly the OA is dismissed.

No order as to costs.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

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Annexures filed by the applicant:

Annexure A1: Copy of the relevant pages of the notification No.Rectt/50-1/DLGS/2019 and relevant pages of the Annexure with posts earmarked for PWD in Kottayam district issued by the 2nd respondent.

Annexure A2: Copy of the certificate No.D2/5147/08/MCHG dated 7.4.2008 issued by the Government Medical College Hospital, Kottayam.

Annexure A3: Copy of the Identity Card No.KTM LD00190006 issued by the Social Welfare Department, Government of Kerala.

Annexure A4: Copy of the representation dated 9.11.2019 submitted by the applicant to the 2nd respondent.

Annexure A5: Copy of the letter No.Rectt/50-1/DLG/2019 dated 28.11.2019 issued by the 2nd respondent.

Annexure A6: Copy of the reply nissued as per letter No.CPT/RTI/209-2019 dated 29.11.2019 issued by the 3rd respondent.

Annexure A7: Copy of the letter No.RTI/120/2019-20/Dig dated 11.11.2019 issued by the 5th respondent.

Annexure A8: Copy of the reply letter No.Ekm/CCC/RTI/1503/2019 dated 29.11.2019 issued by the 4th respondent.

Annexure A9: Copy of the request under RTI dated 31.10.2019 submitted by the applicant to the 6th respondent along with its reply issued as per letter No.CPT/RTI-612/CHC dated 7.11.2019.