

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00655/2017

Wednesday, this the 3rd day of February, 2021

C O R A M :

**HON'BLE Mr.P.MADHAVAN, JUDICIAL MEMBER
HON'BLE Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER**

Anand Sali T.S., S/o. Sali T.S., aged 27 years, Postal Assistant,
Nemmara MDG, Palakkad – 678 508, residing at Thaiparambil House,
Edavanakad PO., Ernakulam – 682 502. ... **Applicant**

(By Advocate Mr. V. Sajithkumar)

v e r s u s

1. Union of India, represented by Secretary to Government,
Department of Posts, Ministry of Communication,
Government of India, New Delhi – 110 001.
2. The Chief Postmaster General, Kerala Circle, Trivandrum-695 033.
3. The Superintendent of Post Offices, Palakkad Postal Division,
Palakkad – 678 001.
4. The Superintendent of Post Office, Ernakulam Postal Division,
Ernakulam – 682 211. ... **Respondents**

(By Advocate Mr. N. Anilkumar, SCGSC)

This application having been heard on 27th January, 2021, the Tribunal
on 03.03.2021 delivered the following :

ORDER

Per : Mr.K.V.EAPEN, ADMINISTRATIVE MEMBER

The applicant is working as a Postal Assistant in the Palakkad Postal Division. He is aggrieved by the alleged erroneous allotment of candidates for appointment as Postal Assistant in Ernakulam Division overlooking the options given by him in spite of the fact that he was more meritorious than the allotted candidate.

2. The applicant had applied for the post of Postal Assistant (PA) for the vacancies of PA/SA for 2013-14 pursuant to the notification dated 21.2.2014 (at Annexure A1). As per Clause 11.2 of the notification it was stated as follows:

“(11.2) A common merit list for the whole Postal Circle shall be prepared in respect of all categories of posts put together. For the said purpose, the candidates shall indicate their preference of the posts codes i.e. Postal Assistants/Sorting Assistants/Postal Assistants (Savings Bank Control Organization)..... and also indicate their preference for Postal/RMS Divisions in the online application. The Codes for each post is given in the instruction sheet/information brochure for the applicant. Thereafter, the candidates will be allotted to the posts and division as per their preference based on their position in the merit list and availability of vacancy.

Such candidates who are not able to get the allocation in any of the post of his preference because of his/her performance, such candidates might be allocated to the post/division where the vacancies exist. The candidates will have to give an undertaking that in the event of his/her not getting the post in his preference, he/she is willing to accept the appointment in any category of the post/division to which he/she is allotted. The candidates who do not indicate their preference, it will be presumed that they have equal preference for all the posts/divisions and may be allocated to the post or division where vacancy exists at the discretion of the Competent Authority.”

(Emphasis added)

Pursuant to the above notification, an examination was conducted on 27.4.2014. After a typing and computer test was held, a final select list was published on 20.10.2014 which is produced at Annexure A2. The applicant had given Ernakulam as his first preference. He had secured 73 marks. He was selected with rank No. 16 against OBC quota-4 of the Palakkad Division. He submits that he was denied inclusion into the select list of Postal Division of his 1st preference as provided by him Annexure A3. In Annexure A3 he has indicated his Division/Unit preference as follows:

- “(i) Ernakulam (2213)*
- (ii) RMS EK Division Ernakulam (2226)*
- (iii) Thrissur (2219)*
- (iv) RMS TV Division Thiruvananthapuram (2227)*
- (v) RMS CT Division Kozhikode (2225)*
- (vi) Thiruvananthapuram North (2223)*

- (vii) ***Palakkad (2206)***
- (viii) *Kottayam (2216)*
- (ix) *Alapuzha (2210)*
- (x) *Tirur (2208)*”

(Emphasis added)

The respondents subsequently issued another order for filling up unfilled (dropout) vacancies by notification dated 13.1.2015 at Annexure A4. By the said notification the candidate at serial No. 2 Smt. Bindia Sukudas who secured 71 marks was allotted Ernakulam Postal Division under the OBC category, overlooking the claim of the applicant who had secured 73 marks. Thus, the applicant claims that the terms of Annexure A1 notification are flouted, causing a serious grievance to him. He made a representation about this alleged violation of the terms of notification to the 2nd respondent at Annexure A5. Since no decision was taken by the 2nd respondent, another representation was made to respondent No. 1 vide Annexure A6. In addition to this Smt. Bindia Sukudas the candidate allotted to the Ernakulam Postal Division with 71 marks relinquished her claim while on training. Since she had not accepted the regular appointment she has not made party to this Original Application by the applicant.

3. The main ground taken by the applicant is that vide Annexure A4 a candidate with less marks was allotted to Ernakulam Division without seeking consent or further opinion from him and as such, the terms of Annexure A1 are flouted. The competent authority has taken no action on his representation. They should have corrected the mistake by giving allotment to the applicant in order of preference. He submits that his 1st preference does not cease even after the allotment to Palakkad as in all competitive examinations including civil service and entrance examinations, there is re-

allotment based on availability of vacancies after the 1st allotment in the order of preference is done. This re-allotment was not done by the respondents in terms of well established principles of fairness and rationality. Hence, he has sought relief to direct respondents to allot him to Ernakulam Postal Division based on his merit and to issue an order accordingly.

4. Per contra, the respondents have filed a reply statement stating that Annexure A2 letter indicates that the applicant is figuring at serial No. 16 in the select list of Palakkad Division. Necessary pre-appointment formalities have been completed by the 3rd respondent and the applicant has already been appointed as Temporary LR Postal Assistant, Palakkad Division. He has joined on 17.11.2014. While the applicant had given his choice of Divisions as Ernakulam, Thrissur, Trivandrum North, Palakkad etc. at the time of online application for direct recruitment of Postal Assistant, he could get selection in Palakkad Division under the OBC category. The applicant had secured 73 marks in the exam whereas the last selected candidates under OBC category in Ernakulam Division had got 74 marks. The last selected candidate in Thrissur got 73 marks. Several applicants under the OBC category got 73 marks in the examination and they had been arranged in the order of date of birth as per the usual norms. Hence, one candidate who was senior in age to the applicant got the selection at Thrissur. In Trivandrum North Division also, the last selected OBC candidate got 76 marks. In essence all the OBC vacancies in Ernakulam, Thrissur and Trivandrum North got filled up and the applicant was therefore, provisionally selected against one OBC vacancy of Palakkad division based on merit and choice of

preference. Subsequently, one candidate selected under OBC category at Ernakulam Division did not turn up for verification of documents and there arose a vacancy in Ernakulam Division in OBC. Accordingly, as per merit and choice of division in the waiting list, another candidate, having 71 marks got selection. His application addressed to the Chief Postmaster General was forwarded by the 3rd respondent. The applicant belongs to the OBC and came within zone of consideration of the select list. His selection was as per choice of post and option submitted by him at the time of online registration and it was considered subject to availability of vacancies announced. As there was no discrepancy in the allotment, no individual reply was served to the applicant by the 2nd respondent.

5. The respondents have also produced the relevant pages of Annexure A2 containing the results of Thrissur, Trivandrum North at Annexure R3(a). It is seen that the last candidate selected under OBC category secured 74 marks in Ernakulam Postal Division. Similarly the last selected candidate under OBC category in Thrissur got 73 marks. While arranging the candidates who got 73 marks according to their date of birth, two candidates who were senior in age were allotted to Thrissur as OBC-6 and OBC-7 respectfully. There has been no discrimination or violation of any rule as contended by the applicant. The Respondents considered the nearest choice of postal divisions as far as possible, subject to availability of vacancies notified under relevant category. The applicant was provisionally selected against OBC-4 in Palakkad Division based on merit and choice of preference subject to availability of vacancy announced.

6. As regards appointment from the waiting list, the procedure is given in Annexure R3(c) paragraph 8 in which it has been stated that the waiting list should have been prepared to the extent of vacancies announced in the relevant category. The candidates in the waiting list are to be considered only in case the selected candidates do not respond or refuse to accept the offer of appointment. It is indicated that the names of candidates in the waiting list shall not be announced and the list will be kept operative for a period of six month extendable by another six months or till the next examination is held whichever is earlier. The respondents have stated that there were 35 drop out vacancies reported by postal divisions/RMS units from the candidates who had not turned up for certificate verification. In place of the 35 drop out vacancies, candidates in the waiting list were provisionally selected and allotted to the divisions according to the category of drop out, as produced in Annexure A4.

7. It is also submitted that the applicant cannot compare the merit of candidates in the select list with the merit of the candidates in the waiting list prepared for the drop out vacancies. The selection of candidates in Annexure A2 and Annexure R1 select list was a sure event for selection to the post of Postal Assistant. At the same time, in the case of candidates in Annexure A4 list, the selection was not sure, as it was linked to the drop out vacancies. The applicant belongs to OBC category and came within the zone of consideration in the select list and his selection was as per his choice of post and option submitted by him at the time of online registration. His selection was considered subject to availability of vacancies announced. Later one candidate, Sri Linu Mohan selected against OBC-2, who got 78 marks in the

selected list, did not turned up for verification. As such one OBC drop out vacancy occurred in Ernakulam Division and accordingly, as per the merit and choice of preference in the waiting list Smt. Bindia Sukudas was selected for the drop out OBC vacancy in Ernakulam Division. In case there was no drop out in Ernakulam Division under the OBC category, there would have been no need for a selection from the waiting list for Ernakulam Division. Therefore, the contention of the applicant that in Annexure A4 drop out list a candidate who secured 71 marks was selected in Ernakulam Division under OBC category in discrimination to him is not sustainable as the selection was made strictly according to Annexure A1 notification as well as the instructions contained in Annexure R3(c).

8. The respondents also submitted that the results of the direct recruitment to the cadre of PA/SA for the vacancies 2013 and 2014 were announced on 20.10.2014. The applicant has challenged this allotment after a long period of three years. In Annexure R3(b) select list there were many candidates more meritorious than the applicant who have not find a place in the select list as per their choice of station and were posted in other far away Postal Divisions, as per the availability of vacancies. In some cases candidates were posted to far away Postal Divisions even though they have not opted that Postal Division. The respondents submit that **the applicant can very well apply for a transfer to Ernakulam Postal Division. His request for transfer to Ernakulam Division will be considered as per the conditions and provisions laid down in Rule 38 of P&T Manual, Volume IV.** He also had given a declaration that he undertakes to accept appointment in any other division in event of not getting the post in division/unit of his

preference.

9. In response to this, the applicant filed a rejoinder reiterating his point that his first preference was at Ernakulam and he had secured 73% marks whereas a candidate from Annexure A4 waiting list was selected and appointed who secured only 71% marks. The respondents could have adjusted the applicant against the drop out vacancy in Ernakulam before offering the same to a 'less meritorious' candidate. The allotment to Palakkad Division was liable to be revised and fresh allotment should have been made granting the applicant appointment instead of accommodating the lower meritorious candidate as is done in competitive examinations.

10. In addition, the applicant has produced two documents at Annexure A7 which shows that reallocation has taken place in appointment of Postal Assistants as indicated in letter No. 04-02/2017-SPB-I(5), dated 18.3.2019. Thus, he seeks to prove that such re-allocation can be done even after the candidates are allotted to one circle depending on the necessity. However, on going through the documents provided it is seen that re-allocation was done for a different reason. It was done on the ground that candidates should not be subjected to suffer for reasons which were not entirely under their control as their dossiers were not received before the allocation of postal circles by Staff Selection Commission after recruitment on the basis of Combined Higher Secondary Level (CHSL) Examination, 2015. In this case, however, this issue is not the same and, as such, it may not be relevant as a guide for in this matter. Also the respondents have contested relying on these documents for a decision on the matter stating that this is not applicable to this case as

all the relevant issues were taken into account and completed before the allocation of the divisions/units was done.

11. The main argument put forth by the respondents is that the selection of candidates by Annexure A2 and Annexure R1 select list was a sure event for selection to the post of Postal Assistant, whereas the candidates in Annexure A4 list were not sure as it was linked to the drop out vacancies. Further, if the applicant is considered for re-allotment to Ernakulam Postal Division it will have a cascading effect in other select lists also. Claims would come from other similarly placed candidates also for consideration of their candidature for their choice divisions against the so called resultant vacancies of re-allotted candidate like the applicant in the present division. The 35 drop out vacancies shown in Annexure R3(d) were filled up by candidates in the waiting list maintained as per instructions in Annexure R3(c). These were provisionally selected and allocated to divisions according to category of dropouts. This list can be seen at Annexure A4. Once the select list is drawn and candidates are allotted to different divisions, no claim exists for their re-allotment and it is the right of the candidates who have found a place in the waiting list to get selected against the drop out vacancies of a particular select list for which the waiting list was drawn.

12. We have heard learned counsel appearing for the applicant Shri V. Sajithkumar as well as learned counsel for the respondents Shri N. Anilkumar, SCGSC.

13. It is our view that we are to mainly look at whether the process of selection was done as per the procedures which have been laid down in the circular, and whether there has been any arbitrariness in the matter affecting the principles of natural justice. As per the details provided it appears that the respondents have taken care to go through the proper procedures and have made the allocation after taking into account the vacancies and choice in order of preference keeping in view the category as well as overall position in the merit list. Such issues are common even during allocation of state cadres after the civil service examination after the results are declared for All India Service like IAS, IPS or IFS. A candidate might have opted for his home State of Kerala before the result of civil service exam but might have not got Kerala and was allotted another State due to factors relating to position in the merit list, vacancies in the category, ratio of insider to outsider, etc. If during training of the batch a candidate of the same category who had got Kerala as his home State drops out, it does not follow that the first candidate will be re-allotted Kerala. We have to only see whether the allocation was made as per rules and whether the principles of natural justice have been maintained. Also, we have to see if a particular candidate suffers discrimination in comparison to others in any particularly arbitrary manner. We do not find in this case that this has been established as the respondents have taken care to explain in detail how the allocations have been done and why the applicant got Palakkad division and not other districts when he had given a higher option, such as Thrissur, Trivandrum North, etc.

14. We therefore, do not find that OA has any merit and is dismissed. However, we note that the respondents in their reply have stated that they are

willing to consider a transfer to Ernakulam Postal Division for the applicant as per the conditions and provisions laid down in Rule 38 of the P&T Manual, Volume-IV. Accordingly, we allow the applicant to make a representation, if he feels so on these basis for such transfer. If such representation is made the respondents shall consider it in due course as per the guidelines and rules for transfer in force.

15. OA is disposed of as above. No order as to costs.

(Dated this the 3rd day of February, 2021)

K.V.EAPEN
ADMINISTRATIVE MEMBER

P.MADHAVAN
JUDICIAL MEMBER

“SA”

List of Annexures in Original Application No.180/00655/2017

- 1. Annexure A1** – True copy of the notification issued as per order No. F. No. A-34012/10/2014-DE dated 21.2.2014 issued by the 1st respondent.
 - 2. Annexure A2** – True copy of the relevant pages of the select list issued as notification No. Rectt/4-3/2014 dated 20.10.2014 by the 2nd respondent.
 - 3. Annexure A3** – True copy of the online application form for Postal/Sorting Assistant Direct Recruitment Examination submitted by the applicant.
 - 4. Annexure A4** – True copy of the notification No. Rectt/4-3/2011-IV dated 13.1.2015 issued by the 2nd respondent.
 - 5. Annexure A5** – True copy of the representation dated 16.1.2015 submitted by the applicant to the 2nd respondent.
 - 6. Annexure A6** – True copy of the representation dated 12.2.2016 submitted by the applicant to the 1st respondent.
 - 7. Annexure A7** - True copy of the OM No. 04-02/2017-SPB-I(5) dated 18.3.2019.
 - 8. Annexure R3(a)** – True copy of relevant pages of Annexure A2 containing the results of Thrissur and Trivandrum North.
 - 9. Annexure R3(b)** – True copy of relevant portion of the OBC merit list.
 - 10. Annexure R3(c)** – True copy of letter No. 60-9/2009-SPB-I dated 8.5.2012 issued by the Postal Directorate.
 - 11. Annexure R3(d)** – True copy of Division wise/category wise communal break up of officials in the drop out list for postal assistants in post offices.
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