

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 421 of 1992
~~F. A. No.~~

DATE OF DECISION 6-8-1992

Ms NK Usha Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

Sub Divisional Inspector Respondent (s)
(Postal), Vaikom & 2 others

Mr Mathews J Nedumpara, ACGSC Advocate for the Respondent (s) 1&2
Mr D Sreekumar, G.P. for R-3

CORAM :

The Hon'ble Mr. SP MUKERJI, VICE CHAIRMAN
&

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

(Mr AV Haridasan, Judicial Member)

The applicant who is working as an Extra Departmental Delivery Agent, Karikode Post Office on a provisional basis has in this application sought a declaration that she is entitled to be considered for regular appointment to that post with weightage, for the service rendered by her in the same post as also being a member of the Scheduled Caste and for a direction to the respondents not to terminate her services except in accordance with Chapter V-A of the Industrial Disputes Act. The applicant was first appointed on a provisional basis w.e.f. 18.1.1992. This application was filed on 16.3.1992 apprehending that in the regular process of selection, the respondents are

not likely to consider her candidature as she might not be sponsored by the Employment Exchange. The applicant had also prayed for an interim relief of a direction to the respondents to consider the applicant also for regular selection in the interview which was scheduled to be held on 18.3.1992. When the application was admitted, on 16.3.1992, an interim order was issued directing the respondents to consider the applicant also along with the candidates sponsored by the Employment Exchange and not to announce the result until further orders. Now the interview has been held and the applicant has also been considered. The result is yet to be announced.

2. The respondents contend that the applicant not being nominated by the Employment Exchange, is not entitled to be considered for regular selection and that she has no right to claim any preference for the purely provisional service for a period of 89 days. It has been further contended that as the post is not one reserved for Scheduled Caste, she is not entitled to any preference.

3. We have gone through the pleadings and the documents and have heard the learned counsel for the parties.

4. Now that the applicant has already been interviewed along with the nominees of the Employment Exchange, what further remains is finalisation of the selection, giving the applicant whatever weightage she is entitled on account of her provisional service. The contention of the respondents that the applicant

is not entitled to any weightage for the provisional service, cannot be accepted in view of the ruling of a Larger Bench of this Tribunal in OA-29/90, wherein it has been declared that past provisional service rendered by ED Agents is an aspect to be taken into account while making regular selection and that weightage should be given to such service. Therefore, the applicant is entitled to weightage for the provisional service rendered by her.

5. It has been contended that the post is not reserved for a Scheduled Caste. But at the time of hearing, the counsel for respondents submitted that the post is actually to be filled exclusively by a S.C. and the contention to the contrary contained in the reply statement happened to be by a mistake. The counsel for the 3rd respondent has brought to our notice that all the nine candidates sponsored by the Employment Exchange belong to the S.C. Therefore as all the candidates including the applicant belong to the S.C., there is no question of any preference being given to any particular individual.

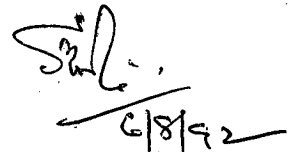
6. As the applicant was not sponsored by the Employment Exchange, the respondents 1&2 have contended that she is not entitled to be considered at all. But, consistent with the view taken by the Tribunal in all the similar cases, we hold the applicant who is provisionally working in the post is entitled to be considered for regular selection though not

sponsored by Employment Exchange.

7. In the result, we dispose of this application with a direction to the respondents to finalise the selection to the post of EDDA, Karikode, giving the applicant due weightage for her provisional service and in accordance with law. We further direct that the provisional service of the applicant shall not be terminated otherwise for appointment of the regularly selected hand, in case, she is not selected and otherwise than in accordance with law. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER



(SP MUKERJI)
VICE CHAIRMAN

6-8-1992

trs