

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 424 of 2008

Thursday, this the 4th day of June, 2009

CORAM:

Hon'ble Mr. George Paracken, Judicial Member
Hon'ble Ms. K. Noorjehan, Administrative Member

1. K. Sasidharan, S/o. the late T. Govindan Nair, aged 54 years, working as Gramin Dak Sevak Mail Man, Shornur, Presently officiating as Group D, RMS, 'CT' Division, Shornur, residing at Mattumbil House, PO Koonathera, Kavalappara, Shornur.
2. K. Mohanan, S/o. the late Narayanan, aged 56 years, working as Gramin Dak Sevak Mail Man, Sub Record Office, RMS, 'CT' Division, Shornur, presently officiating as Group D, Shornur, residing at Kunnanchath House, Chuduvalathoor, Shornur-1.
3. Sasirajan K., S/o. the late Kelappan, aged 51 years, working as Gramin Dak Sevak Mail Man, Sub Record Office, RMS, 'CT' Division, Shornur, residing at Kalathinkal House, Mundamuka, Ganesh Giri, Shornur-3.

Applicants

(By Advocate – Mr. O.V. Radhakrishnan, Sr. alongwith Mrs. K. Radhamani Amma)

V e r s u s

1. Superintendent, RMS, 'CT' Division, Kozhikode.
2. Postmaster General, Northern Region, Kozhikode.
3. Chief Postmaster General, Kerala Circle, Thiruvananthapuram.
4. Director General of Posts, Dak Bhavan, New Delhi.
5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.

Respondents

(By Advocate – Ms. TPM Ibrahim Khan, SCGSC)

The application having been heard on 4.6.2009, the Tribunal on the same day delivered the following:



O R D E R

By Hon'ble Mr. George Paracken, Judicial Member -

The applicants have sought the following relief in this OA;

- "i) to issue appropriate direction or order directing the respondents 1 to 4 to take immediate steps for promoting the applicants 1 to 3 to Group 'D' on the basis of their running seniority against the existing vacancies of the year 1999 onwards which falls under 75% quota set apart for Gramin Dak Sevak under the Recruitment Rules, 2002 and to promote them to Group D from the respective dates of their entitlement with all consequential benefits forthwith and at any rate, within a time-frame that may be fixed by this Hon'ble Tribunal;
- ii) to grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case such other;
- iii) to award costs to the applicant."

2. The first applicant was initially appointed as a Mazdoor under the RMS 'CT' Division, Kozhikode in the year 1983. Subsequently he was selected for appointment as ED Mail Man in the Sub Record Office, Shornur and he was appointed as Extra Departmental Mail Man with effect from 1.3.1986 under the RMS 'CT' Division, Kozhikode. Later he was ordered to officiate as Group-D during various spells from 25.6.1999.

2.1 The second applicant was initially appointed as Mazdoor on 2.6.1979 and subsequently he was appointed as Part Time Rest House Attendant on 5.3.1984 and continued as such till his appointment as Extra Departmental Mail Man on 1.8.1988. He was given officiating promotion during various spells on and from 18.7.2001.

2.2 The third applicant was appointed as Extra Departmental Mail Man on 1.8.1988. Unlike the other two applicants he has not been granted any posting or promotion in Group-D post so far.

3. The learned senior counsel for the applicants Shri O.V. Radhakrishnan has pointed out that the first and the second applicants were already working in the category of Group-D posts with effect from 25.6.1999 and

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18.7.2001 respectively without any break, on the basis of their relative seniority. He has also submitted that there were clear cut regular vacancies and the applicants were posted against them on ad-hoc basis as the respondents were not filling up those vacancies with effect from the respective dates of their occurrence.

4. He has also relied upon in this regard the judgment of the Apex Court in L. Chandrakishore Singh Vs. State of Manipur & Ors. - 1999 (8) SCC 287, in which the Apex Court has held as under:

"15. It is now well settled that even in cases of probation or officiating appointments which are followed by a confirmation unless a contrary rule is shown, the service rendered as officiating appointment or on probation cannot be ignored for reckoning the length of continuous officiating service for determining the place in the seniority list."

5. When the matter was taken up for consideration today, Shri Radhakrishnan has submitted that this case is squarely covered by the judgment of this Tribunal dated 15th December, 2008 in OA 312 of 2008 and other connected cases. The operative part of the said order is as under:

"64. In view of the above, all the O.As are allowed in the following terms. It is declared that there is absolutely no need to seek the clearance of the Screening Committee to fill up the vacant posts in various Divisions which are to be filled up from out of G.D.S. and Casual Labourers as per the provisions of the Recruitment Rules, 2002. Respondents are directed to take suitable action in this regard, so that all the posts, majority of which appear to be already manned by the G.D.S. themselves working as 'mazdoors'/at extra cost, are duly filled. In a few cases (e.g. OA 118/2008), the claim of the applicants is that they should be considered against the vacancies which arose at that time when they were within fifty years of age. In such cases, if the applicants and similarly situated persons were within the age limit as on the date of availability of vacancies, notwithstanding the fact that they may by now be over aged, their cases should also, if otherwise found fit, be considered subject, of course, to their being sufficiently senior for absorption in Group D post. If on the basis of their seniority, their names could not be considered due to limited number of vacancies and seniors alone could be considered for appointment against available vacancies, the respective individuals who could not be considered be informed accordingly. Time calendared for compliance of this order is nine months from the date of communication of this order."

6. The learned counsel for the respondents has also agreed that this case is covered by the aforesaid order of this Tribunal.
7. In view of the aforesaid facts and circumstances of the case, we allow this OA and direct respondents that they shall implement the aforesaid order of this Tribunal dated 15.12.2009 in the case of the applicants herein also, as early as possible, in any case, before 15th October, 2009.
8. There shall be no order as to costs.


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER


(GEORGE PARACKEN)
JUDICIAL MEMBER

“SA”