

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 434 of 2002

Monday, this the 30th day of September, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Gireeshkumar T,
S/o Sri Kunhikelappan Nambiar,
Extra Departmental Delivery Agent/Mail Carrier,
Iyyangode BO, Vadakara,
residing at Thayyullathil House,
Chenole PO, Perambra via,
Kozhikode District - 673 525 Applicant

[By Advocate M/s. O.V. Radhakrishnan & M.A. Shihabuddin]

Versus

1. Sub Divisional Inspector of Post Offices,
Vadakara North Sub Division,
Vadakara - 673 101
2. Superintendent of Post Offices,
Vadakara Postal Division, Vadakara - 673 101
3. Union of India, represented by its
Secretary, Ministry of Communication,
New Delhi. Respondents

[By Advocate Mr. M. Rajendrakumar, ACGSC]

The application having been heard on 30-9-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant pursuant to a notification dated 29-3-2000 inviting applications for the post of Extra Departmental Delivery Agent/Mail Carrier (EDDA/MC for short), Iyyangode, a permanent vacancy, put forth his candidature. By Annexure A4 memo of the Sub Divisional Inspector of Post Offices, he was said to be provisionally selected for the post. He was imparted training and he tookover as EDDA/MC, Iyyangode

on 28-6-2000. While so, when the vacancy in the post of EDSPM, Ayancheri was notified, the applicant applied for a transfer. Although he produced all the relevant certificates etc., he did not hear anything further. While so, he found a notification (Annexure A9) inviting applications for selection and appointment to the post of GDSSPM, Arikulam. When he applied for transfer, he was told by the impugned order dated 23-5-2002 (Annexure A11) that he would not be eligible for transfer as his appointment was only provisional. Aggrieved by that, the applicant has filed this Original Application. It is stated in the Original Application that in the notification the post was specified as permanent, that the selection and appointment was made on a regular basis, that in the order offering him appointment it was mentioned that the appointment was temporary and on adhoc basis solely for the reason that the only one incumbent of the post had been appointed as a Postal Assistant on an officiating basis, and that the applicant having been selected and appointed regularly, the stand taken by the respondents that he is not entitled to be considered for transfer is not justified. It is also stated in the Original Application that the applicant has not been treated as a regular ED Agent giving him all the service benefits like bonus etc. The applicant has, therefore, sought to set aside Annexure A-11 order dated 23-5-2002, for a declaration that his appointment to the post of EDDA/MC Iyyangode with effect from 28-6-2000 on the basis of Annexure A1 notification was on regular basis and that he is entitled to all service benefits admissible to an ED Agent and for a direction to the 2nd respondent to consider the applicant for transfer to the post of GDS SPM, Arikulam.

2. Respondents in the reply statement contend that as the appointment of the original incumbent on the post of EDDA/MC Iyyangode being only on provisional basis, he is not entitled for transfer. However, in the reply statement, it has been made clear that the original incumbent on the post of EDDA/MC Iyyangode, Shri Radhakrishnan Veliyara, having been regularly appointed to the post of Postal Assistant the vacancy of EDDA, Iyyangode has now become regular. It has also been stated that the Postmaster General by order dated 5-6-2000 (Annexure R1(e)) has directed the appointment of the applicant in the post of EDDA/MC, Iyyangode.

3. We have heard the learned counsel on either side and have perused the documents placed on record. Shri M.A. Shihabuddin, learned counsel of the applicant produced for our perusal an order dated 19-7-2002, by which the applicant has been regularly appointed as EDDA/MC, Iyyangode with effect from 28-6-2000.

4. In view of the development that has now taken place, the stand taken in Annexure A-11 order that the applicant would not be eligible for transfer as he was only a provisional EDDA/MC is not sustainable. By our interim order dated 20-6-2002, the applicant was directed to be considered for selection and appointment to the post. The selection has not been completed so far. Now that the applicant has been treated as regular EDDA/MC, Iyyangode with effect from 28-6-2000, he is entitled to be considered for a transfer to the post of GDS SPM, Arikulam.

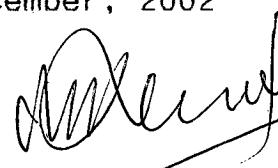
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5. In the light of what is stated above, we dispose of the Original Application setting aside the impugned order Annexure A-11 and directing the respondents to consider the claim of the applicant for transfer on merits treating that he has been a regular EDDA/MC with effect from 28-6-2000 and to give him all the service benefits accordingly. No order as to costs.

Monday, this the 30th day of September, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the notice-Memo No.DA/MC/BO-16 dated 29.3.2000 issued by the 1st respondent.
2. A-2: True copy of the order NO.B1/Rectt dated 7.6.2000 of the 2nd respondent.
3. A-3: True copy of the Memo No.DA/MC/BO 16 dated 7.6.2000 of the 1st respondent.
4. A-4: True copy of the Memo No.DA/MC/BO 16 dated 23.6.2000 of the 1st respondent.
5. A-5: True copy of the letter No.17-60/95-ED & Tr dated 28.8.96 of the Ministry of Communication, Department of Posts, New Delhi.
6. A-6: True copy of the application proforma dated 24.3.2001 of the applicant.
7. A-7: True copy of the letter No.B3/253 dated 23.4.2001 of the 2nd respondent.
8. A-8: True copy of the letter No.B3/253 Vadakara dated 1.6.2001 of the 2nd respondent.
9. A-9: True copy of the Notice NO.B3/251 dated 9.4.2002 of the 2nd respondent.
10. A-10: True copy of the application proforma dated 16.4.2002 of the applicant.
11. A-11: True copy of the letter No.B/25/Vdk. dated 23.6.2002 of the 2nd respondent.

Respondents' Annexures:

1. R-1(a): True copy of the order No.MO-MC/BO-16 dated 29.9.01 issued by Sub Divisional Inspector, Vadakara North Sub Division, Vadakara to the applicant.
2. R-1(b): True copy of the order No.B1/Rectt dated 7.6.2000 issued by Supdt. of Post Offices, Vadakara Division.
3. R-1(c): True copy of the order DG P&T ND No.26-1/80-PAP(Pt.I) dated 7.6.80 issued by Office of the PMG, Kerala Circle, Trivandrum.
4. R-1(d): True copy of the order No.Rectt/4-3/99 dated 7.6.2000 issued from the office of PMG, Northern Region, Kerala Circle, Calicut.
5. R-1(e): True copy of the order No.Rectt/4-3/99 dated 5.6.2000.
6. R-1(f): True copy of the regular appointment order No.B1/57/Dig dated 11.6.2002 issued by Supdt. of Post Offices, Vadakara Division, Vadakara.
