

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 437 OF 2009

Thursday, this the 26th day of November, 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

M. Raghavan,
Working as GDSMD II,
Cheruvannoor – 673 524,
residing at Madathil House,
High School Road, Perampra P.O.

... Applicant

(By Advocates Mr. O.V. Radhakrishnan Sr. with
Ms. Rekha Vasudevan & Mr. K. Ramachandran)

versus

1. Superintendent of Post Offices,
Vadakara Division, Vadakara.
2. The Postmaster,
Vadakara Head Post Office,
Vadakara.
3. Postmaster General,
Northern Region, Kozhikode.
4. Union of India represented by
its Secretary, Ministry of
Communications, New Delhi.

... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 24.11.2009, the Tribunal
on 26.11.2009 delivered the following:

ORDER

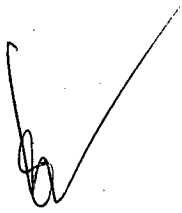
HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER

Thirty one years of service as Extra Departmental Agent (Gramin
Dak Sevaks as now being known) from 28-02-1978 with his seniority at
serial No.63 as of 01-07-2004 made the applicant eligible to claim
appointment as Group D but the applicant was informed that since approval of

the Screening Committee was not forthcoming, he would not be considered for the said post. Thus, O.A. No. 467/2007 came to be filed by the applicant, and the Tribunal allowed the same, holding that the positioning of GDS in the post of Group D does not require such approval from the Screening Committee. Annexure A-3 refers. Consequently, vide Annexure A-4, the applicant was considered by the DPC for Group D post in Vadakara Division but not found eligible for appointment as Group D against the vacant post. Thereafter, willingness was asked from the applicant for consideration of his case for posting him as Postman against a 2005 (25% quota under seniority-cum-fitness) vide Annexure A-5. On his expressing willingness, he was sent for induction training. Annexure A-6 memorandum was issued. Induction Training for ten days was undergone by the applicant, vide Annexure A-7 and the applicant was allotted Vadakara HO but was not given the posting as Postman. Nor was the applicant permitted to be back to his original post of GDS. The applicant made a representation to the first respondent in this regard, vide Annexure A-8. As there has been no favourable response from the respondents, this O.A. has been filed. Relief sought is as under:-


"(i) To issue appropriate direction or order directing the respondents 1 and 2 to issue Orders of appointment and posting to the applicant to the cadre of Postman with effect from 22-3-2009, the following day of successful completion of his Induction Training immediately and to allow him to join the post of Postman without further delay;

(ii) To issue appropriate direction or Order directing the respondents to grant the applicant pay and allowances admissible to the post of Postman from 22-3-2009 treating him as joined the post of Postman on the following day of the successful completion of Induction Training and to grant all other consequential benefits."



2. Respondents have contested the O.A. According to them, since this Tribunal had held that appointment to postmen from GDS was by way of promotion, the DPC erroneously took it that age and educational qualifications are not applicable in the case of promotion and all GDS upto 60 years of age had to be considered for appointment. In the meantime, review remarks on the selection procedure of the DPC dated 02-01-2009 was received from the Post Master General, Northern Region, Calicut with the observation that DPC had considered GDS upto the age of 60 years for selection, which was against the Recruitment Rules. Legal opinion was also received on the matter from the Senior Central Government Standing Counsel on 01-04-2009 with the same observation. The applicant therefore, could not be appointed as Postman. A clarification on the matter had however, been sought, which is still awaited from competent authority. However, in compliance to orders of this Tribunal in Original Application No.130 of 2007 the case of the applicant for appointment to the cadre of Group D was later reviewed by the respondents and as per the recommendations of DPC held on 10-08-2009 the applicant has been appointed as Group D, Koyilandi with effect from 11-03-2009, (the date from which his immediate junior was promoted as Group D). The applicant is not entitled to any relief as claimed for appointment as Postman. Hence the O.A. be dismissed.

3. The applicant has filed his rejoinder, in which he has asserted that nothing can stand in the way of giving posting as Postman after due selection and after issue of appointment order and Induction Training. There was absolutely no need to seek any clarification in this regard. Joining the post as Group D would not constitute estoppel to claim a posting to the cadre of



Postman. It has also been averred in the rejoinder that neither age nor qualification conditions have been stipulated in the Recruitment Rules for the post of Postman, when the source is G.D.S. on seniority basis. Relevant recruitment rules have been added to the rejoinder vide Annexure A-11 read with Annexure A-12.

4. Counsel for the applicant argued that the respondents are thoroughly wrong in contending that the applicant is not eligible for the post of Postman. The fact that filling up of the post of Postman from GDS is not a direct recruitment but a promotion is conclusively held in the decision of the Tribunal vide Annexure A-9 order dated 23rd April, 2007, which had been already upheld by the High Court. In fact, in a number of cases such decision has been given by the Tribunal. Thus, once it is settled that the induction of GDS as Postman is not a direct recruitment, then as the requirement of age and educational qualifications, reference to column No. 9 of the Recruitment Rules should be made, which reads as under:-

"Whether age and education qualifications
prescribed for direct recruitment will apply
in the case of promotions - No."


5. The case of the applicant falls under column No.11 Method of recruitment, serial No. (2)(i) viz., 25% of the vacancies of Postman shall be filled up from amongst Extra Departmental Agents with a minimum of 15 years of service on the basis of their seniority, failing which by the Extra Departmental Agents on the basis of departmental examination. (Annexure A-12 refers). As such, there is no question of any restriction and the applicant has been given a valid appointment order, vide Annexure A-6, and that he had already undergone necessary Induction Training. The counsel further argued

that qualification requirement is insisted only on Group D post and not for Postman/Village Postman.

6. Counsel for the respondents submitted that the educational qualification required was VIII standard, while the applicant possessed only VII standard qualification.

7. Arguments were heard and documents perused. Going by the Recruitment Rules, there is no stipulation that any GDS should have minimum educational qualification as for direct recruitment for the post of Postman. Nor has the age limit been prescribed. Thus, strictly going by the Statutory Provision (and as it ought to be) there is no impediment in the applicant's claim for appointment as postman being met with. Vacancy of postman at Vadakara existing, and the applicant having been issued with the appointment order vide Annexure A-6 which has not been quashed, followed by the fact that the applicant has already completed the Induction Training, unless the Recruitment Rules have been amended at a later point of time to vary from the Annexure 12 amendment, there is no escape for the respondents, save to appoint the applicant as Postman at Vadakara. Even if age limit is considered, as on the date when the vacancy arose (2005) the applicant was stated to be within the age limit.

8. In view of the above, the O.A. is allowed. Respondents are directed to accommodate the applicant as Postman at Vadakara Division and till such time the applicant is so posted as Postman, he would continue to perform his duties as Group D. His posting as Postman shall be notionally from 22-03-2009 as claimed (being the date when Induction Training was



completed) and actual from the date he undertakes the responsibilities as Postman.

9. This order shall be complied with, within one month from the date of communication of this order. No cost.

(Dated, the 26th November, 2009.)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER

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Dr. K.B.S. RAJAN
JUDICIAL MEMBER