

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.46/2001

Friday, this the 20th day of July, 2001.

CORAM:

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

K.Shibu,
Part-time Casual Labourer,
Veliyam Post Office,
Kollam.

Applicant

(By Advocate Sri P.C.Sebastian)

vs.

1. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
2. The Senior Superintendent of Post Offices,
Kollam Division, Kollam.
3. The Assistant Superintendent of
Post Offices,
Kollam South Sub Division, Kollam.
4. The Union of India,
represented by its Secretary,
Ministry of Communications,
New Delhi.

Respondents

(By Advocate Sri P.M.M.Najeeb Khan, ACGSC)

The Application having been heard on 20.7.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant who has passed SSLC Examination and has experience as ED Agent under the 3rd respondent, filed O.A.318/2000 apprehending that his candidature for engagement as casual labour at Veliyam P.O. would not be considered for non-sponsorship by the Employment Exchange. The said O.A. was disposed of directing the 3rd respondent to consider the candidature of the applicant also along with those sponsored by the Employment Exchange. The applicant was called for an

interview held by the 3rd respondent and he was selected. The applicant, thereafter from 16.5.2000 has been working as Part time Sweeper, Veliyam P.O. on the basis of selection and appointment. While so, the 3rd respondent issued a notice dated 6.10.2000(A3) to the applicant stating that on a review of selection files, it was revealed that the procedure adopted for selection of the applicant as Part Time Contigent labour, Veliyam P.O. was irregular and calling upon him to state why the selection should not be cancelled. On receipt of A-3, the applicant wrote a letter to the 3rd respondent requesting that he might be informed as to what was the irregularity in the process of selection and under which porvision of law the show cause notice was issued to him, so as to enable him to give a proper reply. While the applicant did not receive any reply to his letter, the impugned order dated 4.1.2001 was issued by the first respondent cancelling the selection of the applicant as Part Time casual labour at Veliyam P.O. Aggrieved by this, the applicant has filed this O.A. seeking to have the impugned order set aside and for a direction to the respondents to allow the applicant to continue as Part-time casual labourer, Veliyam P.O.

2. It has been alleged in the application that the applicant was employed as Part Time casual labour in Veliyam P.O. after a due process of selection and there is absolutely no justification for cancellation of his selection.


3. In the reply statement filed on behalf of the respondents it has been stated that, there has been a conflict

between the notification issued to the Employment Exchange and in the open notification, i.e., while in the notification to the Employment Exchange, previous experience was shown as preferential qualification, it was not mentioned in the open notification and that the selection of the applicant on the basis of previous experience, while there were persons with higher marks in the SSLC examination, is irregular. Therefore, the respondents seek to justify the impugned action.

4. On a careful scrutiny of the pleadings and materials placed on record and on hearing the learned counsel on either side, I am of the considered view that, the action of the respondents in cancelling the selection of the applicant cannot be sustained at all. The reasons stated in the impugned order that cancellation of the selection of the applicant is contained in para 2 of the impugned order (A1) dated 4.21.2001 which reads as follows:

"Shri K.Shibu in his representation dated 14.10.2000 has stated that he was appointed after following the selection proceedings and interview etc. But a review of the selection file shows that the condition prescribed in the open notification and requisition placed to the Employment Exchange differ. The previous experience is not a criteria for selection to the post. Moreover, there is no supporting document to show that Shri K.Shibu had previous working experience."

5. If there was an omission in mentioning in the open notification of the desirability of previous experience while that was mentioned in the notification to Employment Exchange,



it cannot be treated as a serious infirmity which would vitiate the process of selection. Further, the learned counsel of the respondents has not been able to place any rule or instruction which states that selection, to be engaged as Part time casual labourers, should be made, on the basis of higher marks obtained in the SSLC examination and it has not been stated in the impugned order that any person who was more meritorious was left out for want of experience to say that the applicant's selection was irregular. In the show cause notice issued to the applicant, nothing was stated as to how his selection and appointment was irregular. The impugned order has been issued keeping the applicant in the dark as to what was working in the mind of the respondents for reviewing and cancelling the selection. Further there is no case for the respondents that the applicant was not the most meritorious candidate. I, therefore, do not find any justification in cancelling the applicant's selection.

6. In the light of what is stated above, the application is allowed and the impugned order is set aside. No costs.

Dated the 20th July 2001.


A.V. HARIDASAN
VICE CHAIRMAN

rv

List of Annexures referred to in the order:

A-1: True copy of the order No.Rectt/11-20/98 dated 4.1.2001 issued by the 1st respondent.

A-3: True copy of letter No.PTCE/Veliyam dated 6.10.2000 issued by the 3rd respondent to the applicant.