

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 458/2002

Wednesday, this the 6th day of November, 2002.

CORAM :

HON'BLE SHRI A.V. HARIDSAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Mini L.G.,
GDS BPM, Kazhavur P.O.,
Pulluvila, Trivandrum - 695526.

... Applicant

(By Advocate Mr. Thomas Mathew)

Vs

1. Superintendent of Post Offices,
South Postal Division,
Trivandru-14.
2. Chief Postmaster General,
Kerala Circle,
Trivandrum.
3. Union of India, rep. by its
Secretary,
Department of Posts,
New Delhi.
4. Sheena Thampy S.,
D/o Thampy P.,
Asa Bhavan Chappath,
Chowara P.O., Balaramapuram,
Trivandrum District.

... Respondents

[Mr. C. Rajendran, SCGSC(R 1-3)
Mr. O.V. Radhakrishnan(R-4)]

The application having been heard on 6.11.2002, the Tribunal on the same day delivered the following :

ORDER


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

The applicant, who worked as substitute Gramin Dak Sevak Branch Postmaster(GDS BPM for short), Kazhavur from 31.5.2001 to 30.9.2001 and as GDS BPM on stop gap arrangement from 1.10.2001 to 2.8.2002, has filed this application for a declaration that non-consideration of the candidature of the applicant for provisional appointment to the post of GDS BPM, Kazhavur is arbitrary and discriminatory and that the interview conducted on 30.5.2002 to the exclusion of the applicant for selection and

appointment to the post of GDS BPM, Kazhavur is in violation of Articles 14 and 16 of the Constitution and for setting aside R4(d) order by which the 4th respondent has been selected for appointment as GDS BPM, Kazhavur and for a direction to the 1st respondent to conduct a fresh selection for appointment to the post of GDS BPM, Kazhavur including the applicant also to participate in the interview. The material allegations can be stated as follows :-

2. By Annexure A1 order dated 31.5.2001, the applicant was put in charge of the post of GDS BPM, Kazhavur provisionally while she was working as substitute on that post. Annexure A2 notification was issued calling for applications for filling up the post on regular basis mentioning inter-alia that the post was reserved for OBC. Although the applicant had applied, the 4th respondent, who is not a member of OBC has been selected without considering candidature of the applicant. With these allegations, the applicant has filed this application for the reliefs aforesaid.

3. The respondents 1-3 have filed a reply statement, wherein it is contended that as a number of candidates had responded to the notification, short listing of candidates was made on the basis of the marks obtained in the SSLC Examination, that those who had obtained 64% and above were called for interview and the person with highest marks was selected and appointed. They further contend that there is no infirmity in the process of selection and the 4th respondent belongs to the Ezhava Community, which is one of the backward communities. The 4th respondent has also filed a reply statement seeking to justify her selection and appointment. Referring to the allegation that the 4th respondent got himself converted into Hinduism only for claiming the benefit




of OBC, it has been contended by the 4th respondent that she belonged to OBC and the Gazette Notification was issued as the authorities refused to correct the mistake.

4. The applicant has filed rejoinder refuting the averments made in the reply statements filed by respondents 1-3 as also respondent No.4.

5. Giving the facts and circumstances emerging from the pleadings and material placed on record our anxious consideration, we find little merit in the claim of the applicant in the OA. The learned counsel for the applicant argued that the respondents were bound to consider the applicant's candidature as she possessed the minimum qualification prescribed and that a selection should have been made after considering the applicant also at an interview. The interview for selection of ED agents only consists of verification of the certificates and marks and not one for evaluation of merit by subjecting to a viva-voce. As the number of applicants were more, there was nothing wrong in making a preliminary screening or shortlisting on the basis of the marks obtained by the candidates in the SSLC Examination because as per instructions regarding selection to ED Posts the person with higher marks in the SSLC Examination are to be preferred.

6. Coming to case of the applicant that the 4th respondent belongs to RC and therefore she is not a member of the Ezhava community belonging to OBC, we are not inclined to accept the explanation given in the rejoinder to the reply statement filed by the 4th respondent. The 4th respondent stated that she belongs to Ezhava - Hindu. From the certificate of the Tahsildar R4(h) issued on 2.2.2002, that is prior to the Gazette Notification, it is evident that the applicant is a member of the



Ezhava community which is one of the other backward community in Kerala. The creamy layer certificate Annexure R4(k) also established that the applicant is entitled to the benefit of reservation available to the members of the OBC. The fact that the applicant's community i.e. Ezhava mentioned in the SSLC certificate was noted by the Tahsildar while issuing the Annexure R4(h) certificate proved that the religion of the applicant was wrongly shown in the SSLC Book.

7. In the light of what is stated above, we find that there was no infirmity in the process of the selection and the selection and appointment of the 4th respondent who belongs to the OBC cannot be faulted.

8. In the result, we find no merit in the application and the same is dismissed. No costs.

Dated the 6th November, 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 charge report assuming charge by the applicant dated 31.5.2001.
2. A-2: True copy of notice issued by 1st respondent.
3. A-3: True copy of application submitted by the applicant on 1.5.2002 to the 1st respondent.
4. A-4: True copy of page 2 of SSLC Book.
5. A-5: True copy of page 6 of SSLC Book.
6. A-6: True copy of Pre-Degree certificate.
7. A-7: True copy of certificate dated 23.4.2002 bearing No.K.Dis.A6.10189/2002 issued by Tahsildar, Neyyattinkara.
8. A-8: True copy of certificate NO.Kom/A6/10263/2002 dated 24.4.2002 issued by Tahsildar.
9. A-9: True copy of certificate No.K.Dis. A6/10188/2002 dated 20.4.2002 issued by the Tahsildar, Neyyattinkara.
10. A-10: True copy of speed post receipt and letter dated 4.6.2002 issued by Dy.Manager, Speed Post Centre.
11. A-11: True copy of Acquittance Roll No.84 for January, 2002.
12. A-12: True copy of Acquittance Roll No.185 for February, 2002.
13. A-13: True extract of page 1 of Gazette dated 19th March, 2002 along with notification at page 174.
14. A-14: True copy of judgement in OA 266/90 passed by this Hon'ble Tribunal dated 8.8.1991.
15. A-15: True extract of page 1 of Kerala Gazette dated 19th March, 2002 alongwith Notification.
16. MA-1: True extract of page 1 of Kerala Gazette dated 19.3.2002 alongwith notification.

Respondents' Annexures:

1. R-1: A true copy of the judgement of the Hon'ble High Court of Kerala in OP No.16145/2001 dated 2.7.01.
2. R-4a: True copy of the Memo No.BIC/63 dated 5.11.2001 of the Superintendent of Post Offices, Trivandrum South Division, Trivandrum.
3. R-4b: True copy of the Memo No.B/28 dated 26.9.2001 of the Superintendent of Post Office, Trivandrum South Division, Trivandrum.
4. R-4c: True copy of the letter No.17-366/91-ED&Trg. dated 12.13.93 of the Department of Posts, New Delhi.
5. R-4d: True copy of the Memo No.BO/Kazhivoor dated 20.6.02 of the Inspector Posts, Neyyattinkara Sub Division, Neyyattinkara 695 121.
6. R-4e: True copy of the Memo No.BO/Kazhivoor dated 24.6.2002 of the Inspector Posts, Neyyattinkara Sub Division, Neyyattinkara 695 121.
7. R-4f: True copy of the letter No.19-4/97-ED&Trg., dated 19th August, 1998 of the G.D. Posts, New Delhi.
8. R-4g: Photocopy of the 1st page of the SSLC Book of the 4th respondent.
9. R-4h: Photocopy of the certificate No.Dis/a6/4395/02 dated 2.2.2002 issued by the Tahsildar, Neyyattinkara.
10. R-4i: Photocopy of the certificate No.Kom/A6/10219/02 dated 22.4.2002 issued by the Tahsildar, Neyyattinkara.
11. R-4j: Photocopy of GO(P) No.15/2000/SC/STDD dated 16.2.2000 of the Government of Kerala.
12. R-4k: Photocopy of the certificate No.Kom/a6/26028/02 dated 27.7.2002 of the Tahsildar, Neyyattinkara.

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