

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 464
T. A. No.

1991

DATE OF DECISION 1.7.92

V. S. Rajkumar Applicant (s)

Mr. G. Sasidharan Chempazhanthivil Advocate for the Applicant (s)

Versus

Sr. Postmaster, Trivandrum GPO Respondent (s)
and others

Mr. George Joseph, ACGSC Advocate for the Respondent (s) 1 & 2
Mr. M.R. Rajendran Nair for R-3

CORAM :

The Hon'ble Mr. P. S. HABEEB MOHAMED, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

In this application, the applicant is challenging his termination from the post of E.D. Packer, ^{while working in} in the GPO, Trivandrum and the appointment of the third respondent in his place as per Annexure-A-VIII proceedings dated 11.4.91.

2. According to the applicant he worked as ED Packer as a substitute of Shri A. Surendran Nair, the permanent incumbent from 1.6.90 and continued till 11.4.91. Hence, he was continuing in the post as provisional hand from 1.6.90 and he is eligible for preferential consideration in the regular selection. The applicant was also considered in the regular selection, but he was not selected. On the other hand, the third respondent was selected on account of the fact that he is the person having prior service for longer period in the same post office from 1969 and he is the eldest among the 37 applicants who appeared in the selection.

3. The respondents have filed reply giving a statements ^{denying law} to the application, ~~xxxxx~~ the applicant also filed rejoinder and additional rejoinder.
4. At the time of hearing, the main question which arises for consideration is as to whether the applicant has been given due weightage in terms of the principle laid down by the Full Bench of this Tribunal in O.A. 29/90 and whether the applicant's termination was effected in accordance with law. The learned counsel for the applicant relied on the Full Bench decision and contended that he was not given any weightage, the department has treated him as a substitute and denied the appointment. He also placed reliance on Annexure-IX judgment of this Tribunal and submitted that no statutory notice or a month's pay before termination ~~was given to him before termination.~~ 4
5. The learned counsel for the respondents 1 & 2 produced before us the minutes of the selection proceedings conducted by the first respondent. We have gone through the same. The applicant was treated as a complete outsider and he was not given any weightage for the prior service in the post office. On the other hand, the third respondent who was selected for appoint was treated as an outsider but his service in the GPO, Trivandrum from 1969 was taken into consideration. Presumably, it is on that basis that he was selected but in the final ^{orderly} course it is also noted that the third respondent who is the eldest among the applicants was selected.
6. The learned counsel for the third respondent has also filed reply in which he has stated that the third respondent has worked from 1969 onwards and the applicant came only subsequently. Hence, the learned counsel contended that the applicant cannot have any superior claim.
7. The learned counsel for the applicant submitted that the third respondent has not satisfied the residential qualification he is not residing within the postal jurisdiction of the post office. This is ~~not~~ denied by the respondent No. 3 in the reply filed by him.
8. Having heard arguments of learned counsel on both sides and having considered the matter in detail, we are of the view that the applicant was denied the benefit of prior service and he has not been given weightage as laid down by this Tribunal in the Full Bench decision referred to above. Since

the applicant was denied the benefit, the selection cannot be upheld. We are satisfied that the first respondent conducted the selection not in accordance with law and in that view of the matter, we hold that the selection of the third respondent is bad and cannot be sustained. Accordingly, we quash the Annex.VIII selection and sent back the matter to the first respondent for conducting a fresh selection in accordance with law. The claims of the applicant and third respondent are to be considered in the light of the Full Bench decision of the Tribunal referred to above. Till such a regular selection as directed above is done, the third respondent will be allowed to continue in the post. We also make it clear that the third respondent's service from 11.4.91 should not be taken into consideration for giving weightage to him in the selection conducted pursuant to our above direction.

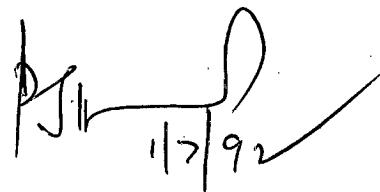
9. We also leave open the applicant's case regarding non-compliance of the statutory rules in terminating his service as per Annexure A-III.

10. The application is allowed to the extent indicated above.

11. There will be no order as to costs.


1.7.92

(N. Dharmadan)
Judicial Member


1/7/92

(P.S. Habeeb Mohamed)
Administrative Member

kmm

(11)

Mr Santhanam.

Mr George Joseph Age R-1-2

Mr M. A. Asha & R-3

At the request on behalf of the learned
counsel & the amicus, post on 8.2.93.

Mr
R

✓
AR

✓
NO

37263

AD TMR

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Mr

Mr Sasidharan.
Mr George Joseph
Ms. P. V. Asha

At the request of learned

counsel for respondents, post on 15.2.93.

Mr

✓
(RR)
872

✓
872

(31) Mr Sasidharan
Mr George Joseph

At the request on behalf of the learned counsel
for the respondents who wants to file a statement,
list the matter on 18.2.93.

✓
RR

AVH

15.2.93

(30) Mr Sasidharan
Mr George Joseph, ACGSC

Learned counsel for the original respondents submits that they have complied with the orders of this Tribunal. Learned counsel for the petitioner seeks some time to ascertain the facts.

List for further directions on 24.2.93.

RR

AVH

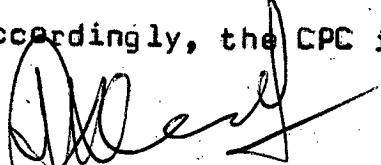
18.2.93

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(39) Mr Sasidharan
Mr George Joseph ACGSC
Mr MR Rajendran Nair R-3

Learned counsel for the petitioner states that without prejudice to the petitioner's right to contest ^{against} the selection made, the CPC may be closed.

Accordingly, the CPC is closed on the above line.


(AV Haridasan)
Judicial Member


(SP Mukerji)
Vice Chairman

B
25/2/93

24-2-1993