

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 05.03.1990

PRESENT

Hon'ble Shri NV Krishnan, Administrative Member
and

Hon'ble Shri AV Haridasan, Judicial Member

DA 465/89

KK Sobhana

: Applicant

Vs.

- 1 Union of India rep. by the Secretary to the Ministry of Communications, New Delhi
- 2 The Superintendent of Post Offices Tirur Sub Division, Tirur.
- 3 The Asstt. Superintendent of Post Offices, Tirur Sub Division, Tirur
- 4 Ms Komalavalii, Munnoor House, Parappanangadi Village Post Ullanam, Tirur Taluk, Malappuram: Dist : Respondents
M/s MK Damodaran, CT Ravikumar & KS Saira : Counsel of Applicant
Mr PS Biju, ACGSC : Counsel(for R1-3)
Mr PK Yussuf Issuddin : Counsel (for R-4)

ORDER

Shri NV Krishnan, Administrative Member.

By this application, the applicant seeks a direction to Respondents 1-3 not to change the order at Annexure-I given to her on 4.7.89 intimating of her provisional selection as Extra Departmental Branch Postmaster, Ullanam North and not to proceed with the selection of a Branch Postmaster, Ullanam North in pursuance of Annexure-5 notice dated 1.8.89.

2. The applicant's grievance has arisen in the following manner:

2.1 Pursuant to a proposal to open a new Branch Office, Ullanam North, a requisition was made on the Employment Exchange, Tirur for sponsoring suitable candidates. The candidates sponsored by the Employment Exchange were rejected by Respondent-2 as they could not produce income certificates.

2.2 Therefore, Respondent-2 issued a notification calling for applications directly, the last date being 24.6.89. The applicant also submitted an application. She received the Annexure-1 letter dated 4.7.89 from Respondent-2 stating that she was provisionally selected for the post of Extra Departmental Branch Postmaster, Ullanam North and she was directed to contact the Assistant Superintendent of Post Offices, Tirur (Respondent-3) for conducting training in Post Office work. The applicant was also asked to meet Respondent-3 in this connection.

2.3 In the meanwhile, the applicant had taken a room on rent for conducting the proposed Branch Post Office when it was open and she also states that she had paid one month's rent in advance. However, by Annexure-4 telegram dated 28.7.89 she was informed that the opening of the Branch Office was postponed.

2.4 But to her great surprise, Annexure-5 notification was issued on 1.8.89, seeking applications for appointment to the post of ED Branch Postmaster, Ullanam North. She, therefore, has prayed that the Annexure-I letter of provisional appointment given to her be maintained.

and that the proceedings initiated for fresh selection of Annexure-5 notice be quashed.

3 Respondent 1 to 3 have filed a reply substantially corroborating the case as stated by the applicant. It is stated that out of the five persons who applied directly in answer to Respondent-2's notice inviting applications - none of whom belonging to Scheduled Castes and Scheduled Tribes - the applicant was selected as she had more marks in the SSLC than others and had independent income and was a resident within the delivery area of the Branch Office. It was, however, submitted that on the basis of a public complaint, certain inquiries were made into the case by an official in the office of Director of Postal Services, Northern Region. On the basis of his inquiry, the Director of Postal Services sent L letter to the Superintendent of Post Offices, Tirur (Respondent-2). It was stated therein that the selection of the applicant was not proper as an interview was not conducted, though required by the instructions. He gave instructions to the Respondent-2 to treat the applicant as a provisional appointee only, in case she was already posted. He also directed that after giving wide publicity, the most suitable person may be selected after initiating de-novo selection proceedings. Further instructions were given as follows:

" If 20% of the ED employees are not from SC/ST in the division, SC candidate to be preferred if he is eligible as per instructions from DG Posts. Marks are not to be considered in such cases".

4. This was also followed by a detailed instruction dated 27th July (Annexure R2). It was stated therein that a SC candidate be selected if one is available.

It was also stated that " mark is only a guideline and not a rule made by D.G. Posts. In the case of Harijans, it is always relaxed". The respondents have justified the issue of Annexure-5 notification on the basis of this communication.

5. During the pendency of this application, one Komalavally, claiming to be a Scheduled Caste, submitted a petition to get herself impleaded as the 4th Additional Respondent. That MP was allowed and she was impleaded. In a statement filed by her she has stated that her name was initially sponsored by the Employment Exchange. Her contention is that the applications of the persons sponsored by the Employment Exchange have all been rejected on the ground that no applicant had stated whether he had any landed property in his name. According to her, the form of application did not contain any column regarding landed property.

6. She also states that no further notification dated 6.6.89 was issued calling for applications and therefore, she could not submit any application. She also states that as the applicant's selection for the post has been held to be invalid by the Director of Postal Services, the application should be dismissed.

7. When the case was fixed for final hearing, the counsel for the applicant and Respondents 1 to 3 were present but neither the 4th additional respondent nor

her counsel was present. A submission was made on/behalf by a proxy counsel to adjourn the hearing which was rejected as we felt it to be unnecessary on the facts of the case.

8 We have perused the records of the case and heard the counsel. The records do not show what kind of irregularity was committed in the matter of selection made of the applicant ~~xxxxxxxxxx~~ in pursuance of the application given ~~made~~ by her in response to the notice dated 6.6.89 issued by Respondent-2. The applicant has extracted the relevant instructions for selection in her reply to the letter No. Rectt.11-1/85-11 dated 12th August, 1987. These are contained in the Post Master General, Trivandrum's letter No. Rectt.11-1/85-11 dated 12th August, 1987. The instructions are produced below:

" The ED Agents constitute the basic source from which the departmental cadres of postman/Mailguard and Group D are filled up. From these departmental cadres 50% of the posts of PAs/SAs cadre are filled up. Thus it is the ED Agents who ultimately constitute 50% of the clerical cadre. It is, therefore, necessary to give premium to Educational qualification in the recruitment of ED Agents. It has, therefore, been decided that candidates with the highest qualification should be given preference for all ED Agents, other things being satisfactory. For matriculates and candidates possessing qualification above matriculation, the criteria for selection will be the percentage of marks obtained in the matriculation/SSLC. The candidate who secured the highest mark will have the best chance, provided that candidate was physical fit". (*emphasis ours*)

5. In so far as the interview is concerned the same letter gives the following instructions:

" An interview should be conducted to assess the physical and general fitness of the candidates for the performance of duties. Only those candidates who satisfy all the conditions should be called for the interview. As the interview is for determining the fitness of the post, no marks will be assigned or weightage given for the interview".

6 It is clear that the main criterion according to these instructions is the ~~xxxxxxxxxx~~ educational qualifications and

that too, the marks and an interview, if necessary, is only to consider the physical and general fitness of the candidate. In any case, no marks will be assigned or weightage given to the interview. It is clear that qualification is this ~~experience~~ needed for posts like Delivery Agents who have to undertake a lot of physical work. In such cases interview might be necessary. In view of the fact that marks are not assigned for interview, unless a candidate is rejected on the ground of unsuitability in regard to physical and general fitness, the candidates securing the highest marks would have to be selected according to these instructions.

Respondent-3 had specifically called the applicant to meet him vide Annexure II and III letters. Despite that there is no averment that the applicant was in any respect physically or generally unfit for the job. That being the case, the applicant's selection cannot be considered to be invalid.

7 Besides, even if any interview was needed the proper direction given was that ~~given was~~ ought to have been to interview all the five persons who, according to the affidavit of Respondent-2, responded to the notice dated 6.6.89 calling for the applications and evaluated them a-fresh.

8 That leaves the averment made by the 4th Addl. Respondent for consideration. If she had any grievance against her non-selection by the Respondents on the alleged ground that she did not have any landed property, though her name was sponsored by the Employment Exchange,

separately. She should have challenged that rejection on time. It is stated by Respondent-2, that 9 candidates ~~who~~ were sponsored by the Employment and on a perusal of their applications made by them it was found that none of them had any independent income. Therefore, fresh applications were called by a notice dated 6.6.89. At least, 5 persons responded to the notification, but not the 4th Additional Respondent. Her contention that such a notice was not issued, it cannot stand scrutiny because atleast 5 persons had already responded to the notification, including the applicant. She has, therefore, prayed/not only to apply for the post again, ^{for permission} ~~as~~ she also questions how a selection was being made/in this manner, when she had ^{now} ~~earlier~~ sent her application, ^{as} her name having been sponsored by the Employment Exchange. As she has failed to be vigilant, she cannot question the selection of the applicant by Respondent-2.

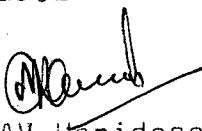
9. The only other question that remains is whether the post ought to have been reserved for a Scheduled caste as stated in Annexure R-2. It is seen from Exhibits R 1 & 2 that the selection of the applicant has not been quashed on the ground that for this post SC/ST alone would have been selected. That apart, even after receipt of Annexure RI and RII, the notice issued calling for fresh applications (Annexure-5) does not state that preference ~~should~~ be given to SC candidates.

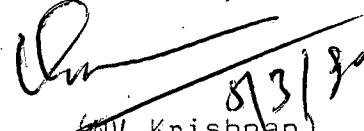
10. We are, therefore, of the view that this ground will not be sufficient to either justify cancellation of

of the earlier selection of the applicant or the issue of fresh notice for selection.

11 For the reasons mentioned above, we allow this application and quash the Annexure-5 notice dated 1.8.89 calling for fresh applications. We direct the respondents to proceed further with the offer given to the applicant at Annexure-1 and if she fulfills the formalities that are required to be fulfilled as stated therein, ^{she} should be appointed to that post.

12 In this connection we would also like to make an observation about the reservations for SC/ST. It is one thing to have a roster in an office where a large number of posts are available. In the case of Post Offices, which are scattered and each office may have complement of 3 or 4 posts, it is necessary for Respondent-1 to evolve a more rational mechanism to identify the Post Office where such representation has to be given, as well as the posts to which appointments should be made on the basis of preference. Perhaps, the relative concentration of SC/ST in the jurisdiction of various Post Offices or regions could be the governing principle for such identification. There could be other criterion. To say the least, the kind of direction given in Ext.R1 and R2 in this regard is most unsatisfactory and arbitrary. A copy of this judgment be sent separately to Respondent-1 for such action as he considers necessary in this regard.


(AV Haridasan)
Judicial Member


(ANV Krishnan)
Administrative Member
813180

5th day of March, 1990.