

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 466 of 1992.

DATE OF DECISION 11-3-1993

Mr TM Ibrahim Applicant (s)

Mr MR Rajendran Nair Advocate for the Applicant (s)

Versus

Asstt. Superintendent of Post Respondent (s)
Offices, Ernakulam Sub Division & another

Mr George CP Tharakan, SCGSC Advocate for the Respondent (s) -1
(through proxy counsel)

CORAM: Mr D Sreekumar, Government Pleader for R-2

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

&

The Hon'ble Mr. R RANGARAJAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

AV Haridasan, J.M.

The applicant who has passed the SSLC Examination with his name 309 marks and who had registered/with the Employment Exchange, Ernakulam on 27.7.1973 applied to the Divisional Employment Officer, the second respondent on 13.2.1992 for selection to the post of E.D.Packer, Bharatha Matha College Post Office in response to a notification which appeared in Mathrubhoomi. Having waited to be called for interview and finding no response, the applicant has filed this application for a direction to the respondents to consider the applicant also, for the post of E.D.Packer at B.M.C. College Post Office which was to be scheduled on 21.3.1992.

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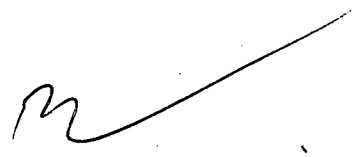
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2. When the application came up for admission on 23.3.1992 it appears that the interview had already been held and therefore an interim order was issued to the effect that the selection and appointment by the first respondent to the post of ED Packer, B.M.C. Post Office would be subject to the outcome of this application and that the appointee should be so informed. In the application the applicant has stated that the non-consideration of his candidature by the first respondent most probably because of his non-sponsoring by the second respondent ~~which~~ is against the equality provisions contained in Articles 14 and 16 of the Constitution.

3. The first respondent has filed a statement indicating that the applicant was not considered for selection on the ground that he was not sponsored by the Employment Exchange and that the best candidate among those who appeared for interview on 21.3.1992 has been provisionally selected and appointed informing him that the selection and appointment would be provisional and subject to the outcome of this application. The respondent No.2 in his reply statement has contended that ~~since~~ the educational qualification required for the selection to the post of ED Packer being only 6th standard, the applicant who has passed the SSLC examination was not sponsored and that in doing so none of the provisions of the Constitution has been violated.

4. We have gone through the pleadings and documents and have also heard the counsel for the parties.

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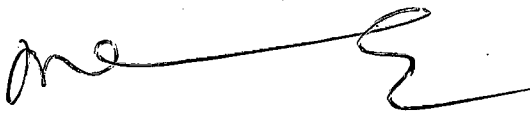
5. The only question to be considered is whether the second respondent was right in not sponsoring the name of the applicant if the applicant had responded to the notification. Annexure-I is a copy of the letter alleged to have been written by the applicant on 13.2.1992 to the second respondent offering himself as a candidate for the post. About the question whether this Annexure-I letter was received by the second respondent or not, there is only the assertion by the applicant that he had written the same and the denial by the second respondent. But the second respondent not sponsored the candidature of the applicant since the applicant being a Matriculate was not sponsored for the post of E.O. Packer as the qualification prescribed for the post is only 6th standard. This reasoning of the second respondent is fallacious. There is no prohibition anywhere in the ED Agents Conduct Rules or in the instruction issued by the DG, P&T or in any of the instructions contained in the requisition issued to the Employment Exchange by the first respondent that a person who possess qualification above the minimum prescribed should not be sponsored as a candidate. Therefore, we have no hesitation ^{to} uphold the decision of the second respondent not to sponsor the candidature of the applicant for the reason that he has qualification above 6th standard is unjustified. Hence as the applicant was left out of consideration unjustifiably, we are of the view that the selection to the post of ED Packer, BMC Post Office should be completed only after considering the candidature of the applicant also.

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6. In the result, we allow the application with the following directions:

The first respondent is directed to call the applicant for an interview within a period of three weeks from the date of receipt of a copy of this order to consider him also as a candidate for selection to the post of E.D. Packer, B.M.C. Post Office and then to finalise the selection. If the applicant is found to be more meritorious than the person already selected and appointed, the first respondent is directed to appoint him in that post terminating the services of the person who has been appointed provisionally. The final decision in the matter of selection should be intimated to the applicant within a period of 15 days from the date of interview. There will be no order as to costs.



(R RANGARAJAN)
ADMVE. MEMBER



(AV HARIDASAN)
JUDICIAL MEMBER

11-3-1993

trs