

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 475/2000

Tuesday, this the 16th day of January, 2001.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Anil. R,
Extra Departmental Delivery Agent,
Thirumalabhagam P.O.,
Residing at Nikarthil House,
Thirumalabhagam.

Applicant

[By Advocate Ms K. Indu]

Versus

1. Union of India represented
by its Secretary,
Ministry of Communications,
New Delhi.
2. The Postmaster General,
Central Region,
Kochi.
3. The Superintendent of Post Offices,
Alappuzha Division,
Alappuzha.

Respondents

[By Advocate Mr N. Anil Kumar, ACGSC]

The application having been heard on 16.1.2001, the
Tribunal on the same day delivered the following:


O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

Applicant seeks to declare that he as a working Extra
Departmental Agent under the same recruiting unit is eligible
to be transferred and posted as Extra Departmental Branch Post
Master, Thuravoor South Post Office and to direct the
respondents to consider him for transfer to the post of EDBPM,
Thuravoor South Post Office in the light of the order in OA
No.45/98 of this Tribunal.

2. Applicant says that he is working as Extra Departmental Delivery Agent at Thirumalabhagam Post Office in Alappuzha Division. A vacancy of Extra Departmental Branch Post Master at Thuravoor South Post Office arose and coming to know of the same he submitted a request for appointment by transfer to that post as per A1. He has not been offered any appointment to that post. Authorities are taking steps for regular selection. If the vacancy is filled in any other mode without considering his transfer request, he will be put to irreparable injury and loss.


3. Respondents resist the OA contending that in order to fill up the vacant post, an open notification was made on 4.4.2000 and a requisition was also placed on the employment exchange on the same day for sponsoring suitable candidates. The last date for receipt of applications was fixed as 28.4.2000. Seven applications were received. The employment exchange sponsored 9 candidates. All these candidates were called for interview on 25.5.2000. Applicant who is working as Extra Departmental Delivery Agent, Thirumalabhagam P.O. also applied in response to the notification, and was called for interview. But he did not attend the interview. He applied for the post after the notification. His request for appointment by transfer was made only on 27.4.2000 along with his application in response to the notification. Applicant filed OA 1060/99 against termination of his service as Extra Departmental Delivery Agent, Thirumalabhagam. The issue raised in that OA is that the selection and appointment are proposed to be terminated as he had no requisite qualification. He was



selected and appointed as Extra Departmental Delivery Agent based on the marks secured by him in JTSLC. Based on the instructions prevailing at the time of selection, JTSLC was not considered to be equivalent to matriculation and his selection was found to be irregular and his appointment was proposed to be terminated. The said OA is pending. During the pendency of the OA the post of EDBPM fell vacant and the applicant moved OA No.475/2000 claiming as a working ED Agent to be transferred to the said post. The issue regarding his eligibility for appointment as ED Agent is under consideration by the Tribunal in the earlier OA.

4. We directed the respondents to produce copy of the application submitted by the applicant in pursuance of the notification and also copy of the interview card issued to him. Respondents have produced the application in pursuance of the notification and also the copy of the interview card. Apart from that, copy of the application submitted by applicant for appointment by transfer is also produced.


5. According to the applicant, he submitted Annexure A1 request dated 26.4.2000 for appointment by transfer. In para 4.2 of the OA it is stated that "a true copy of the 'request dated 26.4.2000 made before the 3rd respondent is produced herewith and marked as Annexure A1.". In A1 also the date is shown as 26.4.2000. Apart from production of the copy of A1 by the respondents, learned counsel appearing for the respondents made available for our perusal the original of A1 submitted by the applicant. There is no date shown in the original. That



being the position, A1 is not the true copy of the original and the certification therein that A1 is the true copy of the original cannot be accepted for a moment. He who approaches the Tribunal should come with clean hands and should not come forward with a copy of a document purporting to be the true copy when it is not so.

6. From MA-2 it is seen that the applicant applied in response to the notification issued by the respondents for the post of Extra Departmental Branch Post Master, Thuravoor South Post Office. MA-3 says that the applicant was called for interview.

7. The fact that the applicant applied for the post of Extra Departmental Branch Postmaster, Thuravoor South Post Office in pursuance of the notification issued by the department is suppressed in the OA. It cannot be a case that the applicant was unaware of it, for the reason that this OA was filed on 27th April, 2000 and MA-2 the application by the applicant in response to the notification is dated 26th April, 2000. So it is only a deliberate suppression. It is needless to say that a party approaching the Tribunal should come with clean hands. It is to be taken that the intention is to mislead the Tribunal. He who deliberately suppresses any material fact and thereby attempts to mislead the Tribunal should necessarily face and suffer the consequence. The consequence is dismissal of the OA. On this ground alone, this OA is liable to be dismissed.

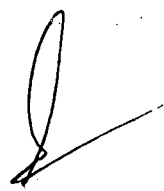


8. The intention of the applicant appears to be that he should get the post of Extra Departmental Branch Postmaster, Thuravoor South Post Office either by transfer or by recruitment from open market. How the applicant can have both simultaneously is not known.

9. It is crystal clear that the applicant was well aware of the notification. In pursuance of the notification, apart from the applicant, 15 candidates were called for interview. There is no relief sought to quash the notification. There cannot be an appointment of the applicant by transfer and also selection by virtue of the notification from open market candidates for the same post. In that situation, the OA is only to be dismissed.

10. Accordingly, the OA is dismissed.

11. Before we part with, we are constrained to observe that the Superintendent of Post Offices, Alappuzha Division who has signed the reply statement stating that it is on behalf of other respondents also has stated in para 6 that the applicant herein filed OA 1060/99 against his termination before this Bench of the Tribunal and that the OA is pending. The reply statement was signed by Superintendent of Post Offices, Alappuzha Division on the 6th of September, 2000. Copy of the order in OA 1060/99 before this Bench of the Tribunal was made available for our perusal by the learned counsel appearing for the applicant. From the same it is clearly seen that, that OA was disposed of on 2nd of November, 1999. It is quite



unfortunate that the Superintendent of Post Offices has stated in the reply statement signed by him on 6th of September, 2000 that OA No.1060/99 was pending whereas in fact that was disposed of about a year prior to that. This is not a matter to be ignored or to be taken lightly. There is no immunity for any departmental officer to make any sort of averment in the reply statement without any responsibility. Here this is purely a statement of fact. There cannot be any confusion on this. This attitude is only to be deprecated.

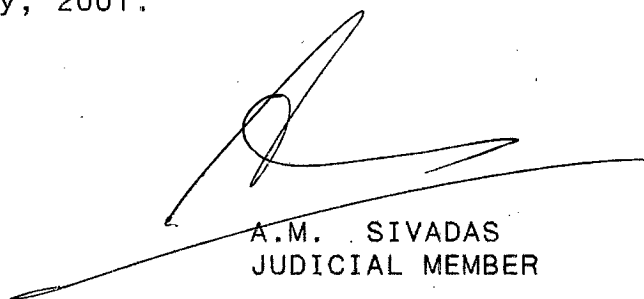
12. The Chief Post Master General, Kerala is directed to take note of the attitude of Mr.P.N.Raveendra Kurup, Superintendent of Post Offices, Alappuzha Division who has signed the reply statement in this OA, and take necessary action against the said official and also to prevent recurrence of such instances and intimate the Registry within 2 months of the action taken in this matter.

13. The Registry is directed to send a copy of this order to the Chief Post Master General, Kerala.

Dated the 16th of January, 2001.



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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Annexures referred to in this order:

- A1 True copy of the request dated 26.4.2000 submitted by the applicant to the 3rd respondent.
- MA-2 True copy of application submitted by applicant dated 26.4.2000.
- MA-3 True copy of Interview Card issued to applicant.