

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 481/99

Monday the 30th day of August 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. Radha Palakkal
W/o Velayudhan
Part-time Sweeper
Postal Stores Depot,
Feroke, Calicut.
2. C.Remani
W/o Raghavan
Part-time Sweeper
Postal Stores Depot Annexe
Chevannur, Calicut.
3. Pushpa P.
Part-time Sweeper
Postal Stores Depot Forms Branch
Chevannur

...Applicants

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Superintendent
Postal Stores Depot
Calicut.
2. The Chief Postmaster General
Kerala Circle, Trivandrum.
3. Union of India, represented by
Secretary to Government of India
Department of Posts
Ministry of Communications, New Delhi.
4. The Director General
Department of Posts
New Delhi.

...Respondents.

(By advocate Mr George Joseph, ACGSC)

The application having been heard on 30th August 1999, the Tribunal on the same day delivered the following:

O R D E R

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

Applicants, three in number, are part-time sweepers in the Postal Stores Depot, Kozhikode. Their grievance is that though they are required to be considered for absorption on Group-D posts on the basis of the instructions contained in letter No.45-24/88-SPB-I dated 17.5.89 and though there are three vacancies, respondents are wilfully keeping in abeyance their regularisation on Group-D posts. The applicants therefore have filed this application for a direction to

the respondents to regularise the applicants on Group-D posts in the existing vacancies.

2. Respondents in their reply statement do admit that as per the policy contained in the Government of India's instructions relied upon by the applicant, part-time casual labourers have a claim to be regularised on Group-D posts, but they contend that since requests for transfer under Rule 38 of P&T Manual Volume IV from serving employees of other units to the Postal Stores Depot, Kozhikode are pending since 1990, it is not possible to consider the case of the applicants for regularisation at the moment. Respondents have indicated that, just because there are three vacancies in existence, it is not necessary that they should be filled immediately and that the applicants' case for regularisation in accordance with the Rules could be considered only after accommodating the five employees whose requests for transfer under Rule 38 are pending.

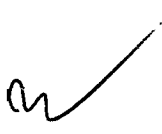
3. We have perused the pleadings and have heard the learned counsel for the parties. The claim of the applicants as part-time casual labourers for absorption on Group-D posts in terms of Annexure A-1 Department of Posts letter No. 45-24/88 SPBI dated 17.5.89 has not been disputed by the respondents. The Apex Court in its judgement in Secretary, Ministry of Communications Vs. Sakhu Bai and another has also noted the submission on behalf of the Government that part-time casual labourers would be absorbed in accordance with the priorities set out in the letter dated 17.5.89. Therefore as admittedly there are three vacancies in Group-D in the recruitment units, on the basis of priorities the applicants have a legal right for being considered for absorption on Group-D posts. This right of the applicants

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would be jeopardised if the respondents exhaust all these vacancies by allowing the transfer requests of Group-D employees of other recruitment units under Rule 38. Such a course is manifestly unjust, arbitrary and prohibited by provisions of Rule 38 of P&T Manual Volume IV itself which stipulate that such transfer could be considered without detriment to the rights of others.

4. The contention of the respondents that recruitment to Group-D is kept in abeyance till the disposal of S.L.P. filed against the judgement of this Tribunal in OA K 557/90 striking down the upper age limit for recruitment to Group-D posts is also not tenable. It has not been stated that Government of India has taken a policy decision not to fill up the vacancies in Group-D in the Postal Department, till the disposal of S.L.P.No.9001-3/90. Further as none of the applicants has reached the age limit prescribed in the Recruitment Rules which was struck down, there is no justification in denying to them the chances of regularisation at the appropriate time when vacancies do exist. The attitude of the respondents towards the applicants in this case appears to our mind to be unduly harsh and highly discriminatory. None of the contentions raised by the respondents to reject the claim of the applicants is tenable.

5. In the light of what is stated above, this application is allowed. Respondents are directed to consider the applicants for absorption as Group-D employees towards three existing vacancies in the Division without any further delay. The said process



shall be completed and appropriate orders issued as expeditiously as possible at any rate within two months from the date of receipt of a copy of this order. No order as to costs.

Dated 30th August 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in this order:

A-1: True copy of the letter No.45-24/88-SPB-I dated 17.5.89 issued by the D.G. Posts.