

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
XXX-XXXX

485

1990

DATE OF DECISION 30.4.1991

K.T.Narayanan _____ Applicant (s)

Mr.Pulikkool Abubacker _____ Advocate for the Applicant (s)

Versus

UOI rep. by the Secy., _____ Respondent (s)
M/o Communication, GOI, N.Delhi & 3 others

Mr.T.P.M.Ibrahim Khan, ACGSC _____ Advocate for the Respondent (s)
(for Res.1 to 3)

Mr.M.R.Rajendran Nair (for Res.4)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

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

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

The applicant, an unsuccessful candidate for appointment to the post of Extra Departmental Branch Post Master, Kilur has in this application challenged his non-selection and the selection of the 4th respondent, and has prayed that the second respondent may be directed not to appoint the 4th respondent as EDBPM, Kilur and to appoint him to that post.

2. The facts lie in a narrow compass. The applicant was one among the nine candidates sponsored by the Employment Exchange, Quilandy for consideration for appointment to the

post of EDBPM, Kilur. The 4th respondent who was working in that post on a provisional basis had filed OA K-605/89 before this Tribunal, praying that he should also be considered for appointment to the post on regular basis, though not sponsored by the Employment Exchange. This Tribunal issued an Interim Order in that case on 30.10.1989 directing that the 4th respondent also should be considered for selection provisionally and subject to the outcome of the application, and that the result of the selection process should not be published until further orders. The applicant, the 4th respondent and the other candidates sponsored by the Employment Exchange and found satisfying the eligibility criterion were interviewed by the second respondent, the Superintendent of Post Office, Vadakara Division on 20.11.1989. Subsequently, when the application No.OA K-605/89 came up for hearing, the Central Government Standing Counsel appearing for the second respondent submitted in Court that, in the interview the 4th respondent was found to be the most suitable person to be appointed to the post and on that basis OA K-605/89 was disposed of, directing the department to publish the result of the interview and to act upon it. Accordingly, pre-appointment formalities were completed and action was taken to appoint the 4th respondent. While so, the applicant aggrieved by

his non-selection and the selection of the 4th respondent has filed this application. It is averred in the application that the applicant who has passed the S.S.L.C.Examination who is residing Very near to the Kilur Post Office and having registered his name with the Employment Exchange, Vadakara as early as in the year 1979 is in every way eligible for appointment as EDBPM, Kilur, that he has 19½ cents of land worth Rs.1 lakh, thus having independent means of income, and that selection of the 4th respondent who does not have any independent income is illegal and improper. It is also averred that the interview conducted by the second respondent was not/proper one. The applicant has prayed that the second respondent may be directed to appoint him to that post, setting aside the selection of the 4th respondent. The applicant has prayed for an Interim Order directing the 4th respondent not to assume office till the disposal of this application. By order dated 22.6.1990, this Tribunal had directed that the appointment of the 4th respondent would be subject to the outcome of this application, and that the appointee should be specifically informed about this. The 4th respondent was appointed to the post/specifically informed that the appointment would be subject to the outcome of this application.

3. The second respondent has in the reply statement sought to justify the selection and appointment of the

4th respondent in preference to the applicant on the ground that the 4th respondent was found to be a more suitable candidate, as she had obtained 268 marks out of 600 in the SSLC Examination, while the applicant has secured only 215 marks, and also ~~that~~ as the property belonging to the applicant was mortgaged to the Payyoli Service Co-operative Bank, the income there from being not even sufficient to pay the interest of the loan, the applicant did not have sufficient independent income whereas the 4th respondent had produced evidence to show that she has independent income. According to the second respondent the selection of the 4th respondent was made strictly in accordance with the rules. The 4th respondent has also filed a statement claiming that her selection is not liable to be set aside, as she has better merits than the applicant to be selected as EDBPM, Kilur.

4. Having perused the pleadings and the documents produced on either side, and having heard the arguments of the counsel, we are convinced that there is absolutely no merit in the contention of the applicant, that he should have been preferred to the 4th respondent in the matter of selection. The second respondent has produced photostat copies of the SSLC certificate of the applicant and the 4th respondent from which it is seen that the

4th respondent has obtained 266 marks when the applicant got only 215 marks out of 600. Annexure-R.2, photostat copy of the certificate issued by the Thahasildar, Quilandy shows that the 4th respondent has got an independent income of Rs.2000/- per annum. The averment in the reply statement filed by the second respondent that the 19½ cents of land belonging to the applicant was mortgaged to the Payyoli Service Co-operative Bank for Rs.10,000/-, and that the income from the property would be wiped out for paying the interest of the loan has not been contraverted by the applicant. There is no case for the applicant that apart from the 19½ cents of land he has any other property or any other means of income. So as between the applicant and the 4th respondent, the applicant having got less marks than the 4th respondent in the SSLC Examination cannot legitimately claim that he is a better candidate than the 4th respondent. Further, the 4th respondent seems to have satisfied the second respondent that she has independent income while the applicant has failed to do so. The 4th respondent had been working in the post on a provisional basis eventhough for a short ^{period} ~~while~~, the applicant does not have any such experience. Therefore, we find that the decision of the second respondent that the 4th respondent is more suitable to hold the post than the applicant cannot be faulted. We are therefore,

convinced that there is no merit in the claim made by the applicant in this application.

5. For the reasons mentioned above, we find that the application has to fail and hence we dismiss the same without any order as to costs.

A.V.Haridasan
(A.V.HARIDASAN)
JUDICIAL MEMBER

30/4/91

S.P.Mukerji
(S.P.MUKERJI)
VICE CHAIRMAN

30.4.1991