

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 50 of 1999

Wednesday, this the 30th day of May, 2001

CORAM

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

1. V.K. Viswanadhan,
Vellikalayil Thekkethil,
Kotta PO, Karakkad,
Pathanamthitta District - 689504 Applicant

[By Advocate Mr. O.V. Radhakrishnan (rep.)]

Versus

1. Sub Divisional Inspector of Post Offices,
Chengannur Sub Division, Chengannur.
2. Superintendent of Post Offices,
Mavelikkara Division, Mavelikkara - 690101
3. Director General of Posts,
Department of Posts, New Delhi.
4. Member (Personnel),
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi. Respondents

[By Advocate Mr. Govindh K. Bharathan, SCGSC (rep.)]

The application having been heard on 30-5-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to quash A4 and A7, to declare that working Extra Departmental Agents are entitled to preference over outsiders for transfer and appointment to other Extra Departmental posts falling vacant in the same office or in the same recruiting unit, to direct the 2nd respondent to consider him for transfer and posting as Extra Departmental Branch Postmaster, Kotta Branch Post Office in preference to outsiders

and also to direct the 2nd respondent not to select and appoint an outsider to the post of Extra Departmental Branch Postmaster, Kotta Branch Post Office through direct recruitment before considering the claims of working Extra Departmental Agents who offered for transfer and posting in the above post.

2. The applicant is working as Extra Departmental Delivery Agent-II (EDDA for short), Kotta Branch Post Office since 22-12-1978. The 2nd respondent invited applications for selection and appointment to the post of Extra Departmental Branch Postmaster (EDBPM for short), Kotta Branch Post Office. On coming to know of the same, he submitted an application (A2) dated 5-12-1998. As per A3, he was called for an interview. On coming to know that he was considered along with candidates sponsored by the Employment Exchange, he submitted a representation dated 23-12-1998 before the 2nd respondent requesting to transfer and appoint him to the post of EDBPM, Kotta Branch Post Office. The request of the applicant was turned down as per A4. In the meantime, the applicant had also appeared before the 2nd respondent for the interview for selection and appointment to the post of EDBPM, Kotta Branch Post Office held on 30-12-1998. A4 and A7 are ultra vires of the provisions of the Constitution. He is fully eligible and qualified to be appointed by transfer as EDBPM, Kotta Branch Post Office.

3. Respondents resist the OA contending that the vacancy notified is a temporary vacancy. The applicant is a permanent ED Agent of Kotta Branch Office. He also applied for the temporary post of EDBPM. He was considered along with other applicants in the selection held on 30-12-1998. Thereafter he

submitted an application requesting posting as EDBPM, Kotta by transfer. The allowance an EDBPM is entitled to is Rs.1600/- while an EDDA gets Rs.1740/-. The statement of the applicant that he has applied for transfer and appointment for betterment of his career is not based on facts. A4 was issued after considering all aspects of the case. A7 was issued by the Member, Postal Services Board for and on behalf of the Director General, Posts.

4. In para 4(iii) of the OA, it is stated thus:

"The pay and allowances attached to the post of EDBPM is Rs.535/- plus D.A. and that of the EDDA is Rs.420/- plus DA. Therefore, the applicant applied for transfer and appointment to the post of EDBPM, Kotta for betterment of his career."

This is strongly controverted by the respondents saying that the allowance an EDBPM is entitled to as per the latest revision is Rs.1600, whereas an EDDA gets Rs.1740/-. This stand of the respondents is based on R1. R1 is dated 22-1-1999. It says that an EDBPM in the revised scale will be getting Rs.1600/- per month, whereas an EDDA at Kotta will be getting Rs.1740/- per month.

5. The learned counsel appearing for the applicant submitted that R1 is dated 22-1-1999 and this OA was filed on 13-1-1999 and therefore the applicant is fully justified in saying that an EDBPM is getting better remuneration than an EDDA. In R1 it is clearly stated that sanction is accorded for revision of the monthly basic allowance of all ED Agents by switching over to Time Related Continuity Allowance with effect from 1-3-1998. So, since as per R1 there is revision of allowance due to EDBPMs and EDDAs retrospectively with effect

from 1-3-1998, there is no force in the argument of the applicant that an EDBPM gets better remuneration than an EDDA as on the date of filing of this OA.

6. The applicant finds it very convenient to say very vaguely that the 2nd respondent invited applications for selection and appointment to the post of EDBPM, Kotta Branch Post Office. He does not say when the notification was issued by the 2nd respondent inviting applications. He further says that on coming to know of the vacancy, he submitted an application on 5-12-1998, as per A2. When he came to know of the vacancy also the applicant feels very happy to suppress.

7. It is quite clear from the applicant's pleadings that he was fully aware of the fact that the notification was issued by the 2nd respondent inviting applications for selection and appointment to the post of EDBPM, Kotta only from outsiders. It is very much evident from A2 for the reason that the applicant has applied as per A2 in response to the notification of the 2nd respondent. So, the position is that the applicant as per A2 applied for the post of EDBPM, Kotta as an outsider. It is the admitted case of the applicant that he also appeared for the interview on 30-12-1998. He was not selected. After having appeared for the interview without any murmur and having lost, now he turns round and says that as a serving EDDA he is entitled to preference over outsiders for appointment to the post of EDBPM. If the applicant has got legally a preferential claim, he need not have applied as per A2 and he need only to have resorted to the remedy available to him as he is a serving EDDA. Instead of that, he has chosen to apply like any other outsider.

8. The applicant says that subsequently he applied for appointment by transfer. For reasons best known to the applicant, he has felt shy of producing a copy of the request made by him for appointment by transfer. Based on A4 the learned counsel appearing for the applicant submitted that his request was dated 23-12-1998. It is true that A4 in the reference portion shows "Letter dated 23-12-1998 of Sri.V.K. Viswanadhan, E.D.D.A.". But, that by itself will not make clear what are the grounds stated by the applicant for his appointment by transfer. The learned counsel for the applicant relying on A4 submitted that from a reading of A4 it could be understood that the request was for appointment by transfer. But, A4 will not show on what grounds he sought and claimed an appointment by transfer. If a copy of his request was produced, it would have been clear.

9. From a reading of the OA the reason that could be inferred is that an EDBPM gets a better remuneration when compared to an EDDA. Such a ground is not sustainable in the light of R1.

10. The position here is that the applicant having without any murmur appeared for the interview in pursuance of the call letter issued to him as an outsider and having lost in the interview, now as per this OA turns round and says that as a working EDDA he is entitled to a preferential claim. We are unable to appreciate the stand of the applicant on this aspect.

11. It is submitted by learned counsel on both sides that A7 has already been quashed by a Bench of this Tribunal. That being so, there is no question of quashing A7 again.

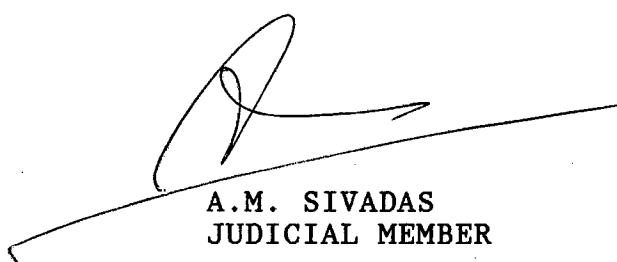
12. Then what remains is only A4. As per A4, the request of the applicant for appointment by transfer is turned down. We have already stated the conduct of the applicant throughout in this matter. In the facts and circumstances of the case, we are not able to agree with the applicant that he is entitled to the reliefs sought.

13. Accordingly, the Original Application is dismissed. No costs.

Wednesday, this the 30th day of May, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A2 True copy of the application dated 5-12-98 of the applicant.
2. A3 True copy of the letter No. B3/Kotta dated 14-12-98 of the 2nd respondent.
3. A4 True copy of the letter No. B2/TFR/EDAS dated Nil/1/99 of the 2nd respondent.
4. A7 True copy of the Order No. 19-72/96-ED&Trg dated 14-2-97 of the 4th respondent.
5. R1 Copy of the Memo issued by the Superintendent of Post Offices, Mavelikara Division No.A/5/Revn. dated 22-1-1999.