

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
O.A. No. 491 of 1998.

Tuesday this the 8th day of June 1999.

CORAM:

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

N.V. Mathew,
Public Relations Inspector (Postal)
Irinjalakuda Head Post Office,
Irinjalakuda - 680 121.

.. Applicant

(By Advocate Shri P.C. Sebastian)

Vs.

1. The Superintendent of Post Offices,
Irinjalakuda Division,
Irinjalakuda - 680 121.
2. The Postmaster General,
Central Region,
Kochi - 682 016.
3. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
4. The Director General of Posts,
Department of Post,
Dak Bhavan, New Delhi.
5. P.G. Babu, Postal Assistant (TBOP),
Irinjalakuda H.O., Irinjalakuda-
680 121.

.. Respondents

(By Advocate Shri Mathews J Nedumpara, ACGSC) (For R.1-4)

The application having been heard on 8th June 1999,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who commenced his service as a Clerk,
now designating as Postal Assistant, with effect from 1.8.1969.
He was promoted as Lower Selection Grade (LSG for short)
Postal Assistant with effect from 1.8.1985 on completion of
16 years of service under the Time Bound One Promotion (TBOP
for short) scheme introduced with effect from 30.11.1983. He was
further promoted to Higher Selection Grade II (HSG-II for short)
on completion of 26 years of total service with effect from
1.10.1991 under the Biennial Cadre Review (BCR for short) Scheme.

The posts of Public Relations Inspector (PRI for short) being one of the norms based and identified supervisory posts, after the introduction of the BCR Scheme in terms of the Policy, communicated by the letters of the 4th respondent, the Director General of Posts, Department of Posts dated 30.3.1992 and 9.8.1994 are to be manned by officials promoted to HSG-II under the BCR Scheme. The posting as PRI is for a tenure of 4 years by rotation. The first respondent, the competent authority by order dated 27.3.97 as part of the rotational transfer posted the applicant as PRI(P) on which post the applicant joined on 21.5.97. While so, the applicant was served with the impugned order dated 25.3.98 reverting him from the post of PRI(P) and posting him as Sub Postmaster, Irinjalakuda North and appointing 5th respondent in his place as PRI(P) Irinjalakuda purported to be under the instructions from the second respondent, Post Master General, on the basis of a review of the case of posting. The applicant is aggrieved and has challenged the impugned order and sought a direction to the respondents 1 and 2 to allow the applicant to continue as Public Relations Inspector (Postal), Irinjalakuda for the tenure and for a declaration that the 5th respondent is not entitled to be posted as PRI(P) Irinjalakuda unless all those promoted under BCR Scheme in Irinjalakuda Division are considered to be not meritorious, not intelligent and not energetic.

2. A reply statement has been filed on behalf of the respondents 1 to 4 contesting the claim of the applicant. The 5th respondent though served with notice did not appear to contest. The impugned order is sought to be justified on the ground that the applicant though a BCR official having crossed the age of 45 years as he was 52 years old, his appointment as PRI was considered irregular by the second respondent on consideration of representation made by the 5th respondent who was a person eligible for appointment as PRI.

3. Given to the facts and circumstances emerging from the pleadings and materials on record, my anxious consideration I am of the considered view that the impugned order is absolutely unsustainable. The applicant was considered for appointment as PRI(P) by the competent authority who appointed him as such by order A-4 being satisfied that he was eligible and suitable to be appointed as such. Pursuant to the above order of the department, the applicant joined on the post on 21.5.97. The impugned order was issued about a year after the A-4 order. There is no allegation that the condition of the applicant regarding the merit, intelligence or energy has deteriorated. There is no total ban of appointment of BCR officials who have crossed the age of 45 years on the post of PRI. In the clarificatory letter (A-5) issued from the Government of India, Ministry of Communications, Department of Posts it has been stated as follows:

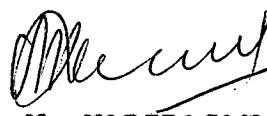
"Since the posts of PRIs are norms base LSG posts, these are to be manned by officials promoted to HSG-II under the Biennial Cadre Review in accordance with the orders issued in implementation of the BCR Scheme. Officials promoted under BCR Scheme are likely to be over 45 years of age with the possible exception of SC/ST officials. Therefore, in implementation of the aforesaid recommendation of the Heads of Circles Meet it has been decided that, as far as possible, officials of over 45 years of age may not be posted as PRIs unless they are considered to be meritorious, intelligent and energetic. In case of no such official from amongst those promoted under the BCR Scheme is available there will be no objection if the posts of PRIs are manned by TBOP officials possessing the qualities mentioned above."

There is no case for the respondents that the first respondent while appointing the applicant as PRI by A-4 order, did not consider whether the applicant was intelligent, meritorious and energetic. Therefore, it was because the competent authority was satisfied that though the applicant had crossed the age of 45 years, as he was meritorious, intelligent and energetic that the applicant was appointed as PRI(P) according to the guidelines contained in Annexure A-5. The second respondent while undertaking a review of the applicant's appointment considered only the fact that the applicant had crossed the age of 45 years, that he, by reason of his

transfer under Rule 38 has become junior in the Circle to the fifth respondent who was only 39 years old and an LSG official and not whether the applicant was or was not meritorious, intelligent and energetic. Since the Supervisory posts are according to the policy to be filled by HSG-II officers eligible and suitable if available and as the 5th respondent was not promoted to HSG-II while the applicant was appointed as PRI(P), the second respondent was not justified in ordering reversion of the applicant from the post of PRI(P) before he completes the tenure. The impugned order based on the direction of the second respondent, therefore, has to be set aside.

4. In the result, the application is allowed. The impugned order A-1 is set aside and the respondents are directed to allow the applicant to continue as PRI for the period for which he was so appointed. No costs.

Dated the 8th day of June 1999.



A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the order:

Annexure A-1 : True copy of Memo No. BB 12/PRI dated at IJK the 25.3.98 of the 1st respondent.

Annexure A-4 : True copy of relevant portion of the Memo No. BB/5/V dated 27.3.97 issued by 1st respondent.

Annexure A-5 : True copy of letter No. 4-52/92-SPB II issued on behalf of the 4th respondent.