

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.494/98

Monday this the 30th day of March, 1998.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

T.Samuel,
Extra Departmental Messenger,
Karunagappally Head Office,
Kurichiyiltharayil House,
Pada South, Karunagappally PO,
Kollam District.

...Applicant

(By Advocate Mr. M.R.Rajendran Nair)

Vs.

1. The Postmaster,
Karunagappally Head Post Office,
Karunagappally.
2. Mr.K.Baiju, Varuzhiltharayil
Pada-South, Karunagappally.

..Respondents

(By Advocate Mr. S.Radhakrishnan, ACGSC)

The application having been heard on 30.3.98, 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 is provisionally working as Extra Departmental Messenger, Karunagappally filed O.A. 394/98 for a direction to the respondents to consider his candidature for regular selection at the interview scheduled to be held on 23.3.98. As agreed to by the counsel on either side the said application was disposed of directing the respondent in that case ie., The Post Master, Karunagappally to consider the candidature of the applicant also at the interview on 23.3.98 or any other deferred date without being sponsored by the Employment Exchange. The second respondent in this case also approached this Tribunal with O.A.441/98 for a similar relief and that application was also disposed of with a

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direction to the first respondent ie., Post Master, Karunagappally to consider the candidature of the applicant therein (who is the second respondent in this OA) at the interview scheduled to be held on 23.3.98 though his name also was not sponsored by the Employment Exchange. The applicant herein appeared before the first respondent and he was given an order provisionally selecting him for appointment to the post of Extra Departmental Messenger on 23.3.98 vide order A4. The second respondent it appears that did not appear before the first respondent at the appropriate time for interview on 23.3.98. ~~However~~ though the applicant has been provisionally selected he was served with an order dated 24.3.98 (A5) informing him that the provisional selection has been cancelled. On enquiry the applicant came to know that the cancellation of the provisional selection was at the instance of the Senior Superintendent of Post Offices for the purpose of giving the second respondent a chance to appear in the interview. According to the applicant the second respondent being aware of the time, date and venue of the interview should have been present at the appropriate place at the appropriate time and on the appropriate date and ~~as~~ failed to do so he is not entitled to any consideration and therefore the action of the first respondent in cancelling the provisional appointment by the impugned order A5 is unsustainable. With the above allegation, the applicant has filed this application for quashing the A5 order dated 24.3.98 for a declaration that the applicant's services are not liable to be terminated for the purpose of conducting a fresh selection for appointment to the post of Extra Departmental Messenger, Karunagappally and for any other reliefs as may be deemed fit, just and proper by this Tribunal.

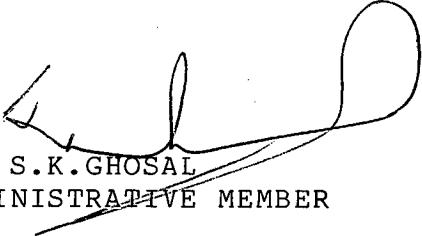
2. We have heard Shri Rajendran Nair, learned counsel for the applicant and Shri S.Radhakrishnan, Addl.CGSC appearing for the first respondent. Under instructions from the first respondent Shri Radhakrishnan states that though the order was passed in O.A.441/98 on 20.3.98 (Friday), the second respondent in this case could obtain~~g~~ a copy of the order only on 23.3.98, that he went to the office of the Sr.Supt. of Post Offices at 1.00 pm, that he was referred to the first respondent that before the second respondent reached the office of the first respondent at 2.00 pm the order of provisional selection was handed over to the applicant, that the Sr.Supt. of Post Offices has instructed the first respondent to make a selection de novo after considering the candidature of the second respondent also in the circumstances of the case and that therefore for the purpose of carrying out that order, the first respondent has issued the impugned order cancelling the provisional selection of the applicant. Learned counsel states that this having been done in public interest and with a view to render justice to the second respondent also is not liable to be interfered with by this Tribunal.

3. On a careful consideration of the facts and circumstances emanating from the application as also from the submission made by the learned counsel for the respondents, we are of the considered view that the action taken by the first respondent in cancelling the provisional selection and deciding to make a fresh selection considering the candidature of the second respondent also is absolutely unexceptionable. It appears to our mind that the respondent has acted in fairness to all concerned safeguarding the interests of all the parties. By mere consideration of the case of the second

respondent the applicant does not lose anything. No right of the applicant has been infringed. The applicant by merely being informed that he has been provisionally selected does not get a vested right to be appointed. The information given to the applicant by A4 order being only of a provisional selection is itself indicative of the fact that the selection was not final and was likely to be varied.

4. In the light of what is stated above, we find no merit in the application. Hence the application is rejected under Section 19(3) of the Administrative Tribunals Act. No order as to costs.

Dated this the 30th day of March, 1998.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

List of Annexures

Annexure-A4: Letter No.ED/Appt/97-98 dated 23.3.'98
issued by the 1st respondent.

Annexure-A5: Order No.ED/Appt/97-98 dated 24.3.'98
issued by 1st respondent to the applnt.

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