

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 500/98

Monday the 1st day of November 1999.

CORAM

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

1. Miss A.R.Roshima
Apathusseri House
Audikadavu P.O.
Kochi - 682 008.
2. Miss Meena M.M.
Morattil House
Karikode Junction
Mulanthuruthy P.O.

...Applicants.

(By advocate Mr P.C.Sebastian)

Versus

1. The Senior Superintendent of Post Offices
Ernakulam Division
Kochi - 682 011.
2. The Postmaster General
Central Region
Kochi-682 016.
3. The Director General Post
Department of Post
Dak Bhavan, New Delhi.

...Respondents.

(By advocate Mr Sunil Jose, ACGSC)

The application having been heard on 1st November, 1999,
the Tribunal on the same day delivered the following:

O R D E R

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

The first applicant applied for the post of Extra
Departmental Branch Postmaster (EDBPM for short), Kumbalam
and the second applicant applied for the post of EDBPM,
Thalacode and Amballoor, preferring the vacancy of EDBPM,
Thalacode. Applicants apprehend that they are not likely
to be considered for selection for two reasons; (a) because
their names are not sponsored by the employment exchange
and (b) all the five vacancies of EDBPM which had arisen
in the year 1997 are being filled by members belonging to
reserved categories. Applicants state that since they have
applied for the post, though they are not sponsored by

employment exchange, they are entitled to be considered and that the filling up of all the five vacancies of EDBPM which had arisen during the recruitment year by appointing any person belonging to SC/ST/OBC reserving all the vacancies is against the guidelines issued by the Government in regard to filling up of vacancies by reserved category candidates. Therefore, the applicants have filed this application jointly for a declaration that the action of the respondents reserving all the five vacancies of EDBPM which had arisen during the year 1997 for being filled up by members of reserved community is illegal and unsustainable and for a direction to the first respondent to treat the vacancies of EDBPM, Kumbalam and Thalacode as unreserved and consider the applicants for the same alongwith other eligible candidates on general merit.

2. Respondents contend that as there are 64 vacancies in the category of EDBPM and EDSPM, reservation of five posts which occurred during the year is not against any instructions or guidelines and, therefore, there is nothing wrong in reserving these vacancies. The respondents further contend that as the vacancies are being filled by the reserved category candidates, the applicants have no right to be appointed.

3. The applicants have filed a rejoinder in which they contend that as per the guidelines issued by the Government in the matter, the limit of 50% reservation cannot be exceeded in any year.

4. We have heard the learned counsel on either side and have perused the materials available on record. Annexure A-7 is the true extract of the letter of the Ministry of

Communication No.19-11/97-ED & Trg. dated 27.11.97 on the subject of reservation of SC/ST/OBCs etc. in appointment to E.D.categories. Sub para (vi) in para 4 of the letter reads as under:

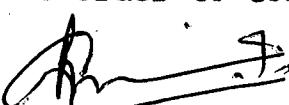
"(vi) The reservation ceiling of 50% should not be violated in any particular year or on the basis of total number of posts. If in any recruiting unit, there is an excess representation of any of the reserved categories or of the total representation of the reserved categories has already exceeded 50% of the total number of posts, it shall be adjusted in the future appointments."

5. Since the respondents have admitted that only five vacancies of EDBPM had arisen during the year in question and all the five are being filled by persons belonging to reserved community, we find that the respondents have violated the above extracted instructions contained in the letter of the Ministry of Communication dated 27.11.97. The action of the respondents in reserving 100% vacancies which had arisen during the year 1997 for appointment of the persons belonging to SC/ST/OBCs is liable to be declared as illegal.

6. In the result, the application is allowed in part. Declaring that the action of the respondents in reserving all the five vacancies of EDBPM which had arisen in 1997 is illegal, we direct the respondents to consider the ^{* first applicant} candidature of the ~~applicants~~ for appointment as EDBPM, Kumbalam ^{*} ~~and Thakkadu~~ as unreserved even though the applicants' names are not sponsored by the employment exchange and not to reserve any vacancy in excess of 50% in any year.

7. The selection as aforesaid shall be held and completed and consequent orders issued within two months from the date of receipt of a copy of this order.

No order to costs. Dated 1st November, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

Annexures referred to in this order:

A-7: True extract of letter of Ministry of Communications
No.19-11/97-ED & Trg. dated 27-11-97.