

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 51 of 2002

Wednesday, this the 18th day of August, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. D.V. Praveen,
S/o Damodaran Pillai,
EDDA, Kureepuzha, Kollam
Residing at Pranavam,
Ambipoika, Kundara.Applicant

[By Advocate Shri Vishnu S Chempazhanthiyil]

Versus

1. Sub Divisional Inspector of Post Offices,
Kollam North Sub Division, Kundara.

2. Superintendent of Post Offices,
Kollam Postal Division, Kollam.

3. Director General of Postal Department,
New Delhi.

4. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi.Respondents

[By Advocate Shri C. Rajendran, SCGSC]

The application having been heard on 18-8-2004, 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 was working as an Extra Departmental
Delivery Agent (EDDA for short) in Kureepuzha E.D Sub Office
from 25-7-1998 provisionally, has filed this application
challenging Annexure A4 notification by which action has been
initiated by the Inspector of Post Offices, Kollam North Sub
Division to make another appointment to the post provisionally
pending decision of departmental appeal/judicial appeal, if
any, preferred by the ex-GDSMD, Kureepuzha ED Sub Office. The
applicant was put in charge of the office, while the original

incumbent in the post was put off duty and was proceeded against departmentally. The grievance of the applicant is that the respondents are attempting to make another provisional appointment which would amount to replacement of a provisional employee by appointing another provisional employee. The applicant also states that in view of the instructions contained in the DG (Posts)'s letter dated 18-5-1979 efforts should have been made to award alternate appointment to the applicant and the applicant should have been regularized on the post and, therefore, no further provisional appointment is called for.

2. Respondents in their reply statement contend that the contentions of the applicant that he has been continuously working since 1998 is not correct as there has been 41 days break in different spells, that the applicant was engaged without any process of selection provisionally and that the present attempt is to make a selection and appointment in accordance with the rules pending departmental proceedings, legal appeals etc. by the original incumbent on the post, who is facing disciplinary action. The action, therefore, is well in accordance with the rules and the applicant is not entitled to challenge it, contend the respondents.

3. We have heard Shri Vishnu S Chempazhanthiyil, learned counsel of the applicant and Shri C.Rajendran, learned SCGSC appearing for the respondents.

4. The fact that the applicant has been appointed on provisional basis without any selection process is not disputed by the applicant. The notification Annexure A4 has now been issued for making a regular selection and appointment, subject only to the decision in the departmental appeal/judicial

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appeal, if any, preferred by the original incumbent on the post. This process is well in accordance with the instructions regarding appointment to ED Posts and consonant with the principles of equality enshrined under Article 14 of the Constitution. The applicant, who has not been selected in a due process, has no right to say that he should not be displaced by a person selected in accordance with the law. The applicant will also be entitled to take part in the selection process. Regarding the claim of the applicant that he is entitled to the benefit of instructions contained in Annexure A5 letter, the applicant has not so far been discharged from service. At the time of discharge, if the applicant is found entitled to any such benefit, the departmental authorities will consider the same. We make it clear that the respondents will consider the candidature of the applicant also for provisional appointment if the applicant would apply pursuant to the impugned notification now without undue delay.

5. With the above observations, the Original Application is disposed of. No order as to costs.

Wednesday, this the 18th day of August, 2004

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H.P. DAS
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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