

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.502/2003

Dated Thursday this the 24th day of July, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. R.Sudhakaran
 2. K.Surendran
 3. S.Krishnan
- Applicants.

(All are Extra Departmental Mailmen,
Railway Mail Service, Head Record Office,
Trivandrum).

[By advocate Mr. Siby J. Monippally)

Versus

1. Union of India
represented by
the Chief Postmaster General
Trivandrum.
2. The Senior Superintendent
Railway Mail Service
Trivandrum.

[By advocate Mr.S.K.Balachandran, ACGSC)

The application having been heard on 24th July, 2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

This Original Application, filed by three applicants,
R.Sudhakaran, K.Surendran and S.Krishnan - all Extra Departmental
Mailmen, working in RMS Head Record Office, Trivandrum - is an
offshoot of earlier OA Nos.178/02 and 442/02 which were disposed
of by this Tribunal as per order dated 29th October, 2002
directing the respondents to take steps and to consider the
applicants for appointment against 3 existing vacancies in Group
'D' in RMS Trivandrum Division within a period of three months
from the date of receipt of a copy of that order. In pursuance
of this Tribunal's directions, A-2 order dated 17.12.2002 has
been passed by Senior Superintendent of Post Offices, RMS

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Trivandrum Division - the 2nd respondent. According to the applicant, admittedly, there were 17 vacancies of Group 'D' available in Trivandrum Division and, that being the position, the respondents were legally bound to fill up the vacancies. It is stated that the vacancies were kept unfilled on the pretext of a ban on recruitment, but the applicants have been carrying out the duties of Group 'D' employees in officiating capacity for the last 13 years or so. A-2 order is, therefore, challenged and the applicants seek a direction from this Tribunal to regularize their services as Group 'D' officials from the date of occurrence of the vacancies and to grant them consequential benefits.

2. The respondents have filed a detailed reply statement objecting to the admission of the application on the ground that the direction of this Tribunal to consider the applicants against the three vacancies in RMS Trivandrum Division was complied with, and that according to the seniority for the purpose of accommodating the applicants against the existing vacancies, the applicants were found to be placed at Sl.Nos. 7, 8 & 9 respectively. It is stated in the reply statement that as per R-1 memo issued by the Directorate of Posts, addressed to the Chief Postmaster General, Kerala Circle, enclosing a DoPT's OM No.2/8/2001-PIC dated 16th May 2001, there is a restriction regarding the filling up of direct recruitment vacancies in as much as such vacancies should not exceed 1/3rd of the vacancies of a particular year, subject to further ceiling which should, by no means, exceed 1% of the total sanctioned strength. It is made clear that a policy in this regard has been taken and all the Departments have been advised accordingly. This being the position, the remaining vacancies cannot be freely filled except

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by specific orders on policy and cleared by the screening committee constituted for the purpose. Mr. Siby J. Monippally, learned counsel of the applicant, has contended that since the vacancies were filled in compliance with the directions of this Tribunal in earlier cases, a similar direction was called for in this case also, failing which the respondents would not fill the vacancies. Mr. S.K. Balachandran, learned ACGSC, has submitted that as far as the remaining vacancies are concerned, the respondents were bound by the policy decision taken by the Government as per R-1 memo and that unless the matter is cleared at the highest level, the remaining vacancies cannot be filled up. In any case, no injustice is caused to the applicants nor any advantage given to their juniors. The applicants' case would be considered as and when vacancies are available for filling up and in that matter, there would not be any cause for fear or apprehension, the respondents' counsel would submit.

3. In the course of the hearing, it was, however, agreed by the counsel on both sides that the OA can be disposed of by permitting the applicants to make a representation for considering their case for regularization in view of their 13 long years of service in officiating capacity in Group 'D' and directing the respondents to consider such representation within a time frame.

4. In the light of the above submissions by the counsel on either side, we dispose of the OA permitting the three applicants herein to submit a detailed representation to the first respondent, detailing their claim, within 3 weeks from today, and

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directing the first respondent to consider the applicants' representation and pass appropriate orders thereon within a period of three months from the date of receipt of such representations.

5. With the above observations, the OA is disposed of.

Dated 24th July, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

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