

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 515 OF 2000

Tuesday, this the 23rd day of May, 2000

CORAM

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

1. T.O. Poulose,
EDMC, Edavoor
Thottankara House,
Edavoor. ..Applicant

By Advocate Mr. P. Kesavan Nair

Versus

1. Union of India, represented by
the Secretary,
Ministry of Communications, New Delhi.
2. The Post Master General,
Central Region, Kochi-682016
3. The Assistant Superintendent of Post Office,
Aluva Sub Division,
Aluva-683101

By Advocate Mr. R. Prasanthakumar, ACGSC

The application having been heard on 23rd May 2000, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant was engaged as a substitute of Sri K.N. Thankappan Nair, Extra Departmental Mail Carrier (EDMC for short), Cheranalloor Branch Post Office, when Thankappan Nair met with a motor cycle accident in the month of July 1997. Ultimately, after the retirement of Thankappan Nair, the applicant was provisionally appointed as EDMC, Cheranalloor Branch Post Office from 22-12-1999. When he was threatened with termination of service and replacement by another provisional ED Agent, the applicant approached this Bench of the Tribunal by filing OA No. 182/2000, which was disposed of as agreed to

by the counsel on either side taking note of the undertaking of the respondents' counsel that the order of termination has been cancelled and that the applicant would be allowed to continue till a regular selection and appointment is made to the post. Now that a regular selection has been made and the respondents have issued A7 order dated 17-4-2000 terminating the services of the applicant to accommodate the regularly selected candidate. The applicant has filed this application seeking to have the impugned order A7 set aside, to declare that the applicant is entitled to be appointed as regular EDMC by considering his long tenure of provisional service and in the light of the instruction contained in DGP&T letter No. 43-4-77 Pen dated 23-2-1979, and to direct the 2nd and 3rd respondents to issue orders appointing the applicant as regular EDMC.

2. We have perused the application, heard the counsel for the applicant and Mr. R. Prasantha Kumar, ACGSC for respondents. The learned counsel for respondents stated that a regular selection has been made considering the applicant as also other candidates, that one Mr. T.C. Anoop who has obtained 307/600 marks in the SSLC examination being the most meritorious candidate has been selected for appointment, that the applicant has obtained only 221/600 marks in the SSLC examination, and that the applicant does not have any right for regularisation.

3. In the instruction relied on by the applicant for seeking the relief what is stated is that efforts should be made to give alternate employment to provisional ED Agent discharged on administrative grounds after rendering three years or more of service on a provisional basis. In this case the provisional service of the applicant, admittedly, is only

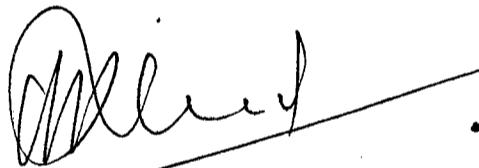
for a few months and, therefore, the applicant is not entitled to any benefits considering his past service. Further, there is no rule or instruction which provides that an ED Agent appointed on provisional basis should be regularised in service. In the order of the Tribunal in OA No. 182/2000 the applicant was allowed to continue only till a regular selection and appointment is made. Now that a regular selection is made, the regularly selected candidate has to be appointed. Respondents have no option but to terminate the service of the applicant. We do not find any infirmity in the action taken by the respondents calling for judicial intervention.

4. The application, therefore, fails and is dismissed in limine. No costs.

Tuesday, this the 23rd day of May, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexure referred to in this Order:

1. A7 - True copy of the notice dated 17-4-2000 to the applicant.