

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**ORIGINAL APPLICATION NO.515/2008.
DATED THE 25TH DAY OF SEPTEMBER, 2009.**

CORAM:

**HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms K NOORJEHAN, ADMINISTRATIVE MEMBER**

Ajimol T G,
Thondali House,
Muriyad Village,
Mukundapuram Taluk,
Thrissur.

... Applicant

By Advocate Mr B Renjith Marar

V/s

1 The Union of India, represented by
The Secretary, Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi.

2 The Post Master General,
Central Region, Kochi.

3 The Post Master General,
Department of Posts,
Office of the Chief Post Master General,
Kerala Circle, Thiruvananthapuram.

4 The Superintendent,
Office of the Superintendent of Post Offices,
Irinjalakkuda Division, Irinjalakkuda.

5 Susmi T S,
Thaliyaparambil House,
Kattoor P.O., Thrissur,
Now working as GDS BPM,
Muriyad Post Office.

... Respondents

By Advocate Mr TPM Ibrahim Khan SCGSC (R 1-4)
Mr P A Kumaran (R-5)



This application having been heard on 25.09.2009 the Tribunal on the same day:delivered the following

(ORDER)

HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed this OA challenging the appointment of the 5th respondent, namely, Ms Susmi T S, as the GDSBPM at Muriyad Post Office. The contentions of the applicant are that the said respondent has not fulfilled the provisions contained in (i) Section IV (1)(4)(i) to Gramin Dak Sevak (Conduct and Employment Rules) according to which "the EDBPM/EDSPM must be a permanent resident of the village where the post office is located and he should be able to attend the post office work as required of him keeping in view the time of receipt, dispatch and delivery of mails, which need not be adapted to suit his convenience or his main avocation.", (ii) Para 2(f) of the Annexure A-4 Memo dated 7.12.2007 inviting applications for the post of Gramin Dak Sevak Branch Post Master at Muriyad Branch Post Office according to which He/she should reside in the revenue village in which the Post office is situated on getting appointment" and (iii) clause 2(a) of Annexure A-5 prescribed notice for appointment to the post of GDSBPM/SPM according to which "The selected candidate should take up his/her residence, within the delivery jurisdiction of the Post Office in which he/she is to be appointed, before appointment."

2 The respondents in their reply has submitted that in response to the Annexure R-1 notification dated 7.12.2007 (Annexure A-4) inviting



applications to fill up the vacant post of GDSBPM, Muriyad which occurred due to the demise of the regular incumbent, 54 applications, including ten applications from candidates sponsored by employment exchange, were received. Out of them, ten candidates including the applicant, were shortlisted for verification of documents. The shortlisting of the applications was made on the basis of the marks scored by the candidates in SSLC Examination. Out of those ten shortlisted candidates, Smt Susmi who obtained 554/600 (i.e. 92.33%) marks in the SSLC, ranked top and satisfied all other conditions of appointment was selected to the post. She has also joined as GDSBPM, Muriyad on 31.5.2008. They have also submitted that it is not necessary that the selected candidate should be a resident of the revenue village in which the post office in which he/she is appointed is located as per Annexure R-2, DG, Posts letter no.22-12/2001-GDS dated 17th September 2003 and In para 4 of the same, it is submitted as under:-

"the sole criteria for selection to the posts of all categories of GDS will henceforth be merit subject to orders on reservation and fulfilling other eligibility conditions like providing of space for BO, taking up residence in the BO village before appointment."

3 The 5th respondent has also filed her reply. She has relied upon the judgment of this Tribunal in P V Kochu Thresia v. Superintendent of Post Offices and Ors [(1993)24 ATC 59] wherein it has been held that the condition of permanent residence in the Postal Village of GDSBPM/SPM before selection was unconstitutional and all that can be insisted upon is a 'residence' and that to only after selection and it is not a



prerequisite for selection. The relevant part of the said judgment in P V Kochu Thresia v. Superintendent of Post Offices and Ors is as under:-

"11 In the light of the above analysis I resolve the difference of opinion in the following terms. I agree with the learned Judicial Member and the impugned Annexure 1-A circular No.43-84/80-Pen., dated 30.1.1981 of D.G., P & T cannot be sustained to the extent it mandates residence in the village where the post office is located for appointment as EDBPM/EDSPM in violation of Article 16 of Constitution. The argument of the learned counsel for the applicant that residential qualification is only a condition to be enforce subsequent to the appointment cannot be accepted in view of the fact that the circular prescribes not merely residential qualification, but on the other hand, 'permanent' residential qualification. It will be contrary to common sense and natural interpretation that one who is a total stranger to the village where the post office is situated can be deemed to be a permanent resident overnight on being appointed as EDBPM. Such a reading down of this qualification is not possible unless the word 'permanent' in Annexure 1-A is abrogated. Subject to this, agreeing generally with my learned brother, the Hon'ble Judicial Member Sri Dharmadan, I find tha the selection of the 4th respondent requires to be set aside and a fresh selection conducted by respondents 1 to 3 for the post of EDBPM, Ayyampuzha village by replacing the 'permanent' residential conditions at Annexure 1-A by a condition of residence simpliciter in the village concerned and that too as a condition to be fulfilled subsequently and not precedent to selection and appointment to the post of EDBPM/EDSPM.

12 Registry if directed to place my opinion before the appropriate Division Bench for final orders.

ORDER OF THE BENCH, DATED 16.11.1992

13 In the light of the judgment of the Hon'ble Vice Chairman resolving the difference the 4th respondent's selection as EDBPM, Ayyampuzha is set aside and we direct the 2nd respondent to conduct a fresh selection to the post after replacing the work "permanent" residential condition at Annexure A-1 with a condition of "residence simpliciter" in the village concerned as explained in the judgment making it clear that such a condition is to be satisfied only subsequent to the selection and appointment to the post of EDBPM/EDSPM.

4 We have heard Advocate Ms Priya for Mr B Renjith Marar, learned counsel for the applicant, Advocate Ms Asha for Mr TPM Ibrahim Khan, SCGSC, learned counsel for respondents 1-4 and Advocate Mr P A Kumaran, learned counsel for respondent no.5. We have also gone through the entire pleadings. We have seen that among the shortlisted candidates for the post of GDSBPM, the 5th respondent has got the highest marks. She has also fulfilled both the condition of acquiring a place of residence within the jurisdiction of the Revenue Village where the

Post Office is located as well as a separate place to run the Branch Post Office within that village.

5 In view of the above position, we do not find any merit in this OA and it is therefore, dismissed. There shall be no orders as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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