

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.516/2000

Tuesday this the 2nd day of July, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Akbar Ali O.P.
Ex-Service Man
Trippanachi P.O.
Kuzhimanna, Pulpatta Village
Malappuram District.

Applicant

(By advocate Mr.P.V.Surendranath)

Versus

1. Union of India rep. by
Secretary to Govt. of India
Ministry of Communication
Department of Posts
New Delhi.
2. Chief Post Master General
Kerala Circle, Thiruvananthapuram.
3. Assistant Post Master General
Northern Region, Kozhikode.
4. Superintendent of Post Office
Manjeri.

Respondents

(By advocate Mr.C.Rajendran, SCGSC)

The application having been heard on 2nd July, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant, an ex-service man who had completed 50 years of age and passed SSLC examination, on being aggrieved by the action of the respondents in proceeding with the selection for appointment of Extra Departmental Sub Postmaster at Pulpatta in Pulpatta Village and Pulpatta Grama Panchayat without proper notification of the vacancy and publication of the same in newspapers or through any other media has filed this OA seeking the following reliefs:



- i) To declare that the entire selection process now undertaken by the respondents for selection and appointment as EDSPM, Pulpatta without proper advertisement and publication of the vacancy is totally invalid in law.
- ii) To direct the respondents to renotify, advertise and publish the vacancy of EDSPM, Pulpatta in newspapers having vide circulation and other media and through employment exchange bulletin over and above display on notice boards of the office of the 4th respondent's as well as office of the District Employment Exchange and Pulpatta ED Post Office and undertake selection process afresh accordingly, affording opportunity to the applicant and other eligible similarly situated persons to apply for selection and appointment.
- iii) To direct the respondents not to proceed with the proceedings scheduled to 23.5.2000 evidenced by Annexure A2 in furtherance of selection and appointment as Extra Departmental Sub Post Master, Pulpatta and set aside the same as illegal and arbitrary.
- iv) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant in the circumstances of the case and
- v) Grant the costs of this Original Application.

2. Applicant has licence to operate a telephone booth with STD facility under the Telecom Department at Trippanachi. Claiming that he was fully qualified to be appointed as an Extra Departmental Sub Post Master and that he had got preferential right for selection and appointment as EDSPM, being an ex-service man, the applicant submitted that the proposed verification of records and documents of the candidates by the 4th respondent for selection and appointment as EDSPM, Pulpatta were totally illegal, irregular, arbitrary and unjust as the 4th respondent did not notify and advertise the vacancy of EDSPM in newspapers having vide circulation or radio or television or any other media or displayed the same on the notice boards of the 4th respondent, District Employment Exchange and existing ED Post Office at Pulpatta. According to him, the same was violative of Articles 14 & 16. He relied on the judgement of the Hon'ble Supreme Court reported in (1996) 6 SCC 216.



3. Respondents filed reply statement resisting the claim of the applicant. It was submitted that the argument of the applicant that the process of selection to the post of EDSPM was undertaken without proper notification of the vacancy and publication of the same was not based on facts. The 4th respondent had placed a requisition on the Employment Exchange, Malappuram by endorsement dated 21.3.2000. Simultaneously the vacancy was also notified locally by the 4th respondent by notification No.Br/EDSO/71 dated 21.3.2000 and copies of the said notification were sent by registered post to the Secretary, Pulpatta Grama Panchayat, The Village Officer, Pulpatta, The Sub Divisional Inspector (Postal), Malappuram, The EDSPM, Pulpatta and The Postmaster, Manjeri Head Post Office with a request to exhibit the same on their respective notice boards. R-2 was copy of the notification exhibited on the notice board of the 4th respondent. 10 candidates were sponsored by Malappuram Employment Exchange in response to R1 requisition and 31 applications were received direct with reference to R-2 notification. The above would indicate that the the vacancy was properly notified and adequate publicity was given to the proposed recruitment. R3 & R4 were list of candidates sponsored by the Employment Exchange and those who directly applied. In terms of R-5 letter dated 19.8.98 issued by the Director General of Posts, since publication of the ED vacancies through newspapers was considered cost prohibitive, the existing method of giving wide publicity by way of public advertisement was directed to be continued to be followed.

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4. Heard the learned counsel for the parties. Learned counsel for the applicant took us through the factual aspects and cited the judgement of the Hon'ble Supreme Court in Excise Supdt., Malkapatanam, Krishna District, A.P. Vs. K.B.N.Vishweshwara Rao & others reported in (1996) 6 SCC 216 in support of her submissions. According to her, in the light of the dictum laid down by the Hon'ble Supreme Court, the OA was liable to be allowed and the applicant granted the reliefs sought for. Learned counsel for the respondents submitted the factual aspects as brought out in the reply statement. He cited the order of this Tribunal in OA No.1335/99 and submitted that the identical question was considered by a bench of this Tribunal in the above mentioned OA including the validity of the R-5 letter dated 19.8.98 issued by the Director General of Posts and had found that in view of the prohibitive costs involved in huge advertisements, this Tribunal concluded that no interference was called for in the letter issued by the Director General. In this particular case, the very fact that 10 employment exchange sponsored candidates and 31 candidates in response to the notification applied, would indicate that adequate publicity had been given.

5. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record. On the basis of these materials, in our view, the applicant has not made out any case for the reliefs sought for by him. We find from the materials placed before us that adequate publicity had been given to the vacancy of EDSPM, Pulpatta and from the details

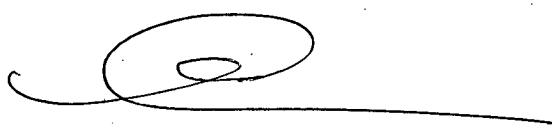
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furnished in the reply statement, we find that as many as 41 candidates including the 10 candidates sponsored by the Employment Exchange had applied in response to the notification. This would indicate that adequate publicity had been given to the vacancy. Hence we find no merit in the contention of the applicant that the vacancy was not properly notified and adequate publicity had not been given.

6. We also find that this Tribunal had upheld the validity of the Director General (Posts) letter dated 19.8.98 (R5) in OA 1335/99. The Hon'ble Supreme Court in its judgement relied on by the learned counsel for the applicant had held that sufficient publicity should be given for vacancies so that everybody gets an equal opportunity. In this case, we find that this has been followed and hence there is no merit in the contention of the applicant that Articles 14 & 16 had been violated in this case.

7. In the result, finding no merit, this Original Application is dismissed leaving the parties to bear their respective costs.

Dated 2nd July, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

aa.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the representation dated 5.5.2000 submitted by the applicant to the 2nd respondent.
2. A-2: True copy of the call letter dated 8.5.2000 issued by the 4th respondent.
3. A-3: True copy of the communication dated 16.5.2000 issued by the 4th respondent to the applicant.

Respondents' Annexures:

1. R-1: True copy of the requisition sent to the Employment Exchange.
2. R-2: True copy of the local notification No.B3/EDSO/71 dated 21.3.2000.
3. R-3: List of candidates sponsored by the Employment Exchange.
4. R-4: List of candidates whose applications were received in response to the local notification.
5. R-5: True copy of the letter No.19-4/97-ED & TRG dated 19.8.98 issued by Assistant Director General (ED& TRG), O/o Ministry of Communications, Department of Posts, Government of India, Dak Bhavan, New Delhi.
6. R-6: Extract from Swamy's compilation of service Rules for Posts & Telegraph Extra Departmental Staff 1983 Edition section II- Method of recruitment (Page-40).
7. R-7: True copy of the judgment dated 10.4.2000 in O.A No.1335/99 of the Hon'ble Central Administrative Tribunal, Ernakulam Bench.
8. R-8: True copy of the notice bearing No.B3/EDSO/71 dated 19.4.2000 issued by the Supdt. of Post Offices, Manjerri Division.

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