

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 524
T. A. No.

199 0

DATE OF DECISION 14.8.91

P. Ravichandran Applicant (s)

Mr. K. Ramakumar Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary, Department of Posts and
Telecommunications, New Delhi and others

Mr. K A Cherian, ACGSC Advocate for the Respondent (s) R 1-3
Mr. C P Ravindranath for R-4

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The grievance of the applicant is against the termination of his service from the post of E.D. Messenger Kuttippuram and selection and appointment of the fourth respondent in that place.

2. The applicant was originally appointed as E.D. Messenger in Kuttippuram post office under the third respondent by Annexure-A order dated 11.9.1986, on a provisional basis. Since his name was not sponsored by the Employment Exchange when a regular selection to the said post was made, he filed O.A. 113/87 which was heard and disposed of by Annexure-B judgment dated 26.4.90 by

with the following observations:

"In the facts and circumstances of the case, we allow this application only to the extent of directing the respondents 1 & 2 that the applicant also should be considered for selection for regular appointment to the post of EDM, ~~Kutt~~ Kuttippuram and appointed to the post if he is found to be a more meritorious and suitable candidate than Respondent No. 4. Otherwise, the applicant will have to give place to respondent No.4."

3. After the judgment, the applicant was interviewed on 25.6.90 but he was not selected. The fourth respondent which ^{is} was selected solely on the basis of marks/he obtained in the SSLC Examination. This according to the applicant is against the rules governing the selection which only fix the qualification for appointment to the post of E.D. Messenger as VIII standard. The applicant was not given priority based on his prior service as directed by this Tribunal in number of cases including the judgment in O.A. 76/89 (Annexure-C). The service of the applicant was terminated w.e.f. 27.6.90 while passing Annexure-D order. In this application filed under section 19 of the Administrative Tribunals' Act, 1985, the applicant is challenging the termination order Annexure-D and Annexure-E instructions prescribing preference based on the percentage of marks obtained in the SSLC Examination.
4. The respondents 1 to 3 and the fourth/^{respondent 2} have filed separate reply statements denying all the averments made in the application.
5. Having heard the matter and after perusing the records, we are of the view that this application can be

disposed of without deciding the main issues raised in this case in view of the fact that learned counsel Shri V. R. Ramachandran Nair appearing on behalf of the applicant submitted that after the filing of this application, the applicant has filed a representation before the second respondent for getting an alternative employment in any of the next arising vacancies in the nearby post offices considering his past service as E. D. Messenger for about four years. He was originally engaged as a provisional hand by order Annexure A dated 11.6.86. His service was terminated only on 27.6.90, for accommodating the fourth respondent after his selection. But he was continued from 27.9.87 on the basis of the stay order issued by the Tribunal in O.A. 113/87. However, the fact remains that because of the failure of the respondents to vacate the stay and oust him from service, he was working as ED Messenger from 11.9.86. Since he has now put in more than three years, his name should be included in the Waiting List as provided in DGP&T letter No. 43-4/77-Pen dated 23.2.79 and 18.5.79. Recently, we have held in O.A. 1096/90 that a person who has worked as E.D. Agent for nearly three years is entitled to be considered for alternative post by including his name in the Waiting List. The relevant portion of that judgment reads as follows:

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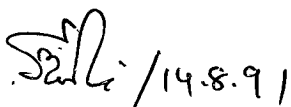
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" Since the applicant has already worked as EDSPM more than four years her case squarely comes within the second para of DGP&T letter 23.2.79. The respondents 1 & 2 ought to have included her name in the waiting list of discharged E.D. Agents and provided her with an alternative employment when she had pointed out the vacancy of EDSPM in Muthukulam Post Office which arose on 28.12.90.

Having considered the matter carefully we are of the view that Ext. A-4 is liable to be quashed. We do so and allow this application to the extent of directing Respondents 1 & 2 to appoint the applicant as EDSPM, Muthukulam Post Office. This shall be done within a period of two months from the date of receipt of a copy of this judgment."

6. Giving benefit of the aforesaid judgment justice can be done to both parties. The second respondent can give the applicant a posting in the next arising vacancy as E.D. Messenger in the nearby post office considering by including his name in the Waiting list. ✓ his request. In this view of the matter it is not necessary for us to decide the question raised in this application regarding the appointment of the applicant. Accordingly, we are satisfied that justice in this case will be met in this case if we direct the second respondent to include the name of the applicant in the ✓ Waiting List of E.D. Agents/ in the Kuttippuram post office or nearby places within a period of one year. Accordingly we do so.
7. The application is disposed of as above. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(S. P. MUKERJI)
VICE CHAIRMAN