

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.525/96

Monday, this the 25th day of May, 1998.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

A Sekharan,  
Extra Departmental Delivery Agent,  
Edakkulam.P.O.  
residing at Sree Ram Nivas,  
Edakkulam.P.O.  
Koilandy, PIN: 673 306.

- Applicant

By Advocate Mr MR Rajendran Nair

vs

1. The Superintendent of Post Offices,  
Vadagara Division,  
Vadagara.

2. The Chief Post Master General,  
Kerala Circle,  
Trivandrum.

- Respondents

By Advocate Mr Mathews J Nedumpara, ACGSC(rep)

The application having been heard on 25.5.98, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who is an Extra Departmental Delivery Agent in the Edakkulam Post Office, appeared for a departmental examination for recruitment to the cadre of Postman on 15.10.95. He belongs to the open category. The last person from the open category selected for the post had secured 133 out of 150 and the applicant had secured 132 marks. The case of the applicant is that there was a post of Postman reserved for Scheduled Tribe which was not filled up since there was no suitable Scheduled

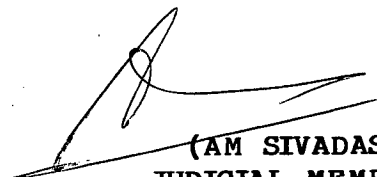
Tribe candidate available. Relying on Karnataka State Road Transport Corporation Vs BK Doreswamy, 1994(4) SLR 596, the applicant contends that in the absence of a suitable Scheduled Tribe candidate being available, the post should have been filled up with an open category candidate and the post should have been carried forward to subsequent years for being filled up by Scheduled Tribe candidates. Applicant accordingly prays for a declaration that he is entitled to be considered for appointment/promotion as Postman in one of the existing vacancies in accordance with his merit in the departmental examination.

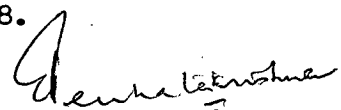
2. Respondents have contended that since the applicant belongs to an unreserved category he has no right to get a posting against the vacancies reserved for S.T. category. They also submit that action was being taken to get the post filled up by an S.T. candidate in accordance with the departmental rules. They further state that according to R.5 orders, unfilled vacancies of S.T. community cannot be filled up by a candidate belonging to another community in the normal course and a detailed procedure has been stipulated for dereservation of the vacancy.

The  
3. / vacancy in question arose in 1995 and applicant cannot be considered for a reserved post of that year. If the vacancy was carried forward, then the vacancy would be filled up from among candidates who were eligible for subsequent years and therefore applicant cannot press his claim for the carried forward post on the basis of his 1995 eligibility. The decision on which applicant relies is no more good law in view of subsequent decisions of the Supreme Court. We are therefore not able to grant the relief sought by the applicant.

4. Accordingly the application is dismissed. No costs.

Dated, the 25th May, 1998.

  
(AM SIVADAS)  
JUDICIAL MEMBER

  
(PV VENKATAKRISHNAN)  
ADMINISTRATIVE MEMBER

LIST OF ANNEXURE

Annexure R-5: Office Memorandum No.36012/6/88-Estt(SCT)  
dated 25.4.1989 issued by the Ministry of  
Personnel, PG & Pension, Department of  
Personnel & Training, New Delhi.

...