

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO.526/2001

Wednesday this the 8th day of August, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

K. Baby, aged 52  
D/o Kochummini,  
Part Time Contingent Employee,  
Aralumoodu Post Office,  
Neyyattinkara, residing at  
Kuzhivila Puthen Veedu,  
Near Post Office, Aralumoodu,  
Neyyattinkara. ....Applicant

(By Advocate Mr.Vishnu S.Chempazhanthiyil)

v.

1. Sub Postmaster, Aralumoodu,  
Neyyattinkara, Trivandrum.
2. Sub Divisional Inspector of  
Post Offices, Neyyattinkara.
3. Superintendent of Post Offices,  
South Postal Division,  
Thiruvananthapuram.
4. Director General,  
Postal Department, New Delhi.
5. Union of India, represented by  
its Secretary, Ministry of  
Communications, New Delhi. ....Respondents

(By Advocate Mr.S.Krishnamoorthy)

The application having been heard on 8.8.2001, the Tribunal  
on the same day delivered the following;

O R D E R

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

The applicant who has been working as Part Time  
Contingent Sweeper/Scavenger/Water Carrier from 1990 onwards  
submitted an application for appointment as Extra  
Departmental Packer in the vacancy which arose on 26.2.2001  
by application dated 5.3.2001 (Annexure.A3). She is

claiming preferential treatment on account of her continuous service as a Part-time Casual Labour under the respondents. It appears that the Employees Union also represented to the third respondent espousing the case of the applicant. However, finding that the second respondent has issued a notification on 5.6.2001 for filling up the post by recruitment from open market and apprehending that her chances for appointment with due preference would be defeated, the applicant has filed this application seeking to set aside the notification (Annexure.A5) and for a direction to the respondents to consider the applicant as a regular contingent employee for appointment to the post of E.D.Packer,Aralumoodu in preference to outsiders.

2. The respondents in their reply statement contend that as the applicant was not initially sponsored by the Employment Exchange and does not have 240 days of continuous service for the last several years she is not entitled to be given preference for appointment as E.D.Packer in terms of the DG Posts letter dated 6.6.88. However, it has been indicated that her claim for preferential treatment would be considered alongwith similar other applicants, once they make their claim pursuant to the notification.

3. In the rejoinder filed, the applicant has denied the allegation that the applicant has not been working for 240 days. It has been contended that the applicant has been working continuously.

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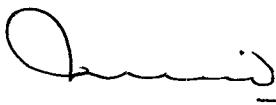
4. With a view to establish the claim of the applicant that the applicant has been working continuously for more than 240 days every year, the applicant filed MA 886/2001 for a direction to the respondents to produce the attendance register of the Aralumoodu Post Office.

5. When the Original Application and the MA came up for hearing today, learned counsel of the respondents stated that the respondents are not pressing the contention that the applicant has not been working for 240 days continuously for all these years and that the respondents resist the claim of the applicant only on the ground that she was engaged as a Part Time Sweeper cum Scavenger/Water Carrier not being sponsored by the Employment Exchange and therefore she is not entitled to the benefit. In view of the above submission the MA 886/2001 is not pressed and hence closed.

6. Heard the learned counsel on either side. The applicant admittedly has been working as a Part Time Sweeper/Scavenger/Water Carrier from 1990 onwards. The contention of the respondents that the applicant has not been working continuously for 240 days every year has now been given up. Therefore the effect is that the applicant has been continuously working for the last ten years continuously. The claim of the applicant for preferential right in the matter of appointment to ED Posts in terms of DG Posts Letter dated 6.6.88 (R.1) is disputed only on the ground that the applicant was not sponsored by the

Employment Exchange. It has been held by this Bench of the Tribunal in OA 818/2000 that a service of seven years as a Part Time Contingent Sweeper cannot be considered as a stop gap arrangement and therefore after retaining a person as Part Time for seven years it is unjust to deny the benefit on account of the fact that initial appointment was not made through the Employment Exchange. The facts of the case are similar to the facts of that case and the dictum in that case applies on all fours to this case also. As the applicant has been working as a Part Time Contingent Sweeper for the last more than ten years, we are of the considered view that the applicant is entitled to be given preference for appointment to ED Posts in terms of DG Posts letter dated 6.6.88 (Annexure.R1). The sponsorship of the employment exchange has lost its significance especially when the applicant has been retained for a such long time.

6. In the light of what is stated above, the contentions of the respondents are overruled. The respondents are directed to consider the appointment of the applicant as E.D.Packer, Aralumoodu Post Office along with other casual labourers, if any, who have already applied. Recruitment from open market in terms of notification Annexure.A5 shall be resorted to only if the applicant or any other casual labourers who have already applied is found ineligible or unsuitable for such appointment. No order as to costs.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

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Dated the 8th day of August, 2001

A.V. HARIDASAN  
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A3:True copy of the representation dated 5.3.2001  
to the 2nd respondent.

Annexure.A5:True copy of notification No.EDP/ARD dt.  
5.6.2001 of the 2nd respondent.

Annexure.R.1:True copy of the letter No.17-141/88-ED&Trg.  
dated 6.6.1988 issued by the Department.

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