

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O.A. No.  
~~EXA~~ No.

529/89

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DATE OF DECISION 31.5.90

V.P.Ushakumari Applicant (s)

M/s O.V.Radhakrishnan &  
K.Radhamani Amma Advocate for the Applicant (s)

Versus

Sr.Supdt. of Post Offices,  
Alwaye Division & 2 others. Respondent (s)

P.Santhosh Kumar, ACGSC Advocate for the Respondent (s)

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? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. To be circulated to all Benches of the Tribunal? Yes

JUDGEMENT

(Shri S.P.Mukerji, Vice Chairman)

In this application dated 3rd September, 1989 the applicant who has been working as an Extra Departmental Branch Post Master (EDBPM) at Mudakuzha Branch Post Office under the Senior Superintendent of Post Offices, Alwaye, has prayed that the respondents be directed to consider her also for regular selection to that post and declare the results of the interview held on 31.8.87. Her further prayer is that she should be declared to be entitled to the protection of Chapter-VA of the Industrial Disputes Act and the respondents be

directed not to terminate her service otherwise than in accordance with section 25-F of that Act and <sup>to</sup> accord her the preferential right under section 25-H of that Act and Rule 78 of the Industrial Disputes Rules for regular selection to that post. The brief facts of the case are as follows:

2. The applicant has been working originally as a substitute as EDBPM at Mudakuzha since 11.7.87. When the regular incumbent got promotion she continued to work in that capacity even after 18.8.87 with the approval of the Sub Divisional Inspector of Post Offices and had completed 240 days of service. She has passed SSLC, is a resident within the delivery zone of that Post Office, got herself registered with the Employment Exchange on 8.9.1982 and eligible in all respects for regular appointment to that post. When action was started to make regular selection for that post, the Employment Exchange nominated 7 candidates without including her name. The applicant moved this Tribunal in OA.132/87 against her exclusion and by the interim order of the Tribunal she was also considered along with other candidates and interviewed on 31.8.87 but the results have not been declared as directed by the Tribunal. Leaving open the contentions made in that OA, the same was dismissed. The applicant's contention is that the Post Offices having been declared to be an 'industry', she is entitled to the

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protection and benefits under Chapter-VA of the Industrial Disputes Act, including notice, retrenchment benefits and preferential treatment for appointment.

3. According to the respondents, the applicant was interviewed under the interim orders of the Tribunal but the results have not yet been declared and she is continuing in the post as directed by this Tribunal.

④  
passed on 10.3.87  
with directions.  
fr

fr on 31.3.87 but an interim order Ex.A2 was already ④  
Her original application in O.A.132/87 was rejected/ fr

The respondents have stated that Posts & Telegraphs Department is not an 'Industry' and that no order of termination has been issued to the applicant.

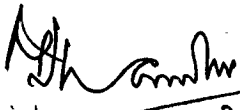
4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The Bench of this Tribunal to which one of us was a party decided a similar case in OA 360/86 on 22.12.89. The applicant in that case was also appointed as EDBPM on provisional basis and her name was not sponsored by the Employment Exchange for regular selection. The applicant claimed the rights and protection under the Industrial Disputes Act and for being interviewed even though she was not sponsored by the Employment Exchange. Relying upon the decisions in a number of other cases, the Tribunal directed that the applicant in that case should also be interviewed for regular appointment and giving <sup>em</sup> the benefits under the I.D. Act. The following observations made in the judgement would be relevant:

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"The identical question has come up for consideration before this Tribunal in several cases. Some of them are TAK 62/87, TAK 763/87 and TA 204/87.


..contd.

In all these cases it was held that persons already working in the Post Office as ED Agents are entitled to preferential treatment under Section 25 H of the Industrial Disputes Act. If the eligibility conditions are satisfied and that even if they are not sponsored by the Employment Exchanges, they should also be considered along with candidates sponsored by the Employment Exchanges and they should be given preferential treatment under Section 25 H of the Industrial Disputes Act. Though the interview/test was held on 18.4.86 excluding the applicant, pursuant to the interim order dated 1.5.86, the results of the same have not been announced and the applicant is continuing in the post on a provisional basis."

5. In the facts and circumstances, we allow this application and <sup>declare</sup> ~~direct~~ that the applicant is eligible to be considered for regular appointment to the post of EDBPM even though her name was not sponsored by the Employment Exchange and <sup>direct</sup> that she ~~is~~ should be considered for regular appointment to that post on the results of the interview held on 31.8.87 as also by conferring on her the benefits of section 25 H of the I.D. Act. We further direct that if she has to be removed from the post, it should be done in accordance with law and in accordance with Chapter VA of the I.D. Act. There will be no order as to cost.

  
(N. Dharmadan)  
Judicial Member

31.5.90

  
(S.P. Mukerji)  
Vice Chairman

31.5.90