

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 531/92 1993

DATE OF DECISION 31.3.1993

Ms. ER Santha Bai Applicant (s)

Shri P Viswanathan Advocate for the Applicant (s)

Versus
Union of India (Secy., Min. of Respondent (s)
Communications) & 2 others

CORAM : Shri V Ajithnarayanan, ACGSC Advocate for the Respondent (s) 1-3
Shri D Sreekumar, GP " 4

The Hon'ble Mr. AV Haridasan, Judicial Member
&

The Hon'ble Mr. R Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ~
3. Whether their Lordships wish to see the fair copy of the Judgement ? ~
4. To be circulated to all Benches of the Tribunal ? ~

JUDGEMENT

(Hon'ble Shri AV Haridasan, JM)

The applicant, Ms. Santha Bai working as Extra Departmental Branch Post Master, Perinjanam West Post Office provisionally has in this application prayed that the respondents may be directed to appoint her as Extra Departmental Branch Post Master at Perinjanam West Post Office or to consider her also for such appointment.

The applicant has claimed in this application that she has been working in this post continuously from 1984 when Shri Madhavan, retired, that when Shri KK Chitharanjan who was later appointed to the post left for Middle East she was again appointed on 17.12.1991, that she is still

continuing to work as EDBPM provisionally and has alleged that as the 4th respondent, the Employment Officer refused to sponsor her candidature on the ground that she did not have sufficient seniority of registration, the 3rd respondent is going to make a selection without considering her case.

2. While admitting the application, this Tribunal issued an interim order on 8.4.92 directing that the applicant should also be provisionally considered while making a selection for appointment to the post on regular basis. As the applicant apprehended termination of her provisional service, she filed MP 640/92 for a direction not to terminate her services during the pendency of this application. By order dated 28.4.92, the MP was disposed of directing that the services of the applicant should not be terminated except after regular selection the result of which should be produced before the Bench before announcement and implementation. The applicant was provisionally considered for selection and is continuing in service on the basis of the interim order.

3. The 4th respondent has sought to justify the non-consideration of the applicant on the ground that persons who had registered with the Employment Exchange earlier have to be given preference and in that process the application of the applicant could not be sponsored.

4. The respondents 1 to 3 contend that the case of the applicant that she was appointed in 1984 is not true, that Shri Madhavan was discharged from service only on 12.12.90, that the applicant was provisionally appointed only on 24.1.92 though she had on some occasion earlier worked as substitute, that though the applicant also was considered provisionally as per the interim order, Smt. Sakuntala who had secured 271 marks out of 600 in the SSLC examination

(Signature)

was found to be the most eligible candidate and that the applicant who had obtained only 232 marks out of 600 is not entitled to be selected in preference to the more meritorious candidate Smt, Sakuntala. They also contend that as the applicant's name was not sponsored by the Employment Exchange, the applicant is not even eligible to be considered for selection.

5. The learned Additional Central Government Standing Counsel produced for our perusal the file relating to the selection.

6. The case of the respondents that the applicant is ineligible to be considered for selection since her name has not been sponsored by the employment exchange has no force because the applicant is a person working against the very same post on a provisional basis and in such cases this Bench of the Tribunal has been consistently taking the view that ED Agents provisionally working should be considered even though for regular selection ~~is not sponsored by the employment exchange.~~ The applicant has registered her name with the Employment Exchange also.

7. Having heard the arguments at length and having perused the pleadings and documents as also the file relating to the selection, we are convinced that the applicant is not entitled for a direction to the respondents to appoint her as ED BPM Perinjanam West. The file discloses that Smt. PK Sakunthala who had scored 271 marks out of 600 has been found to be the most meritorious and suitable candidate and that the applicant had obtained only 232 marks. Therefore, the applicant is not entitled to the relief (A) in paragraph 8 of the application. The applicant has been provisionally considered for selection.

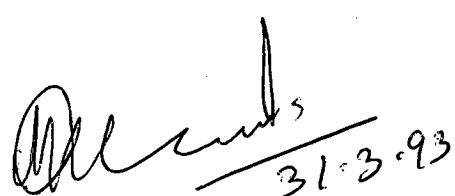
in terms of the interim order. We have held that she is eligible to be considered for selection.

8. The learned counsel appearing for the applicant submitted that though the applicant is continuing on the strength of the interim order, her allowance after the month of March has not been paid to her and that while disposing of the application appropriate direction for disbursement of the same may be given. Since the applicant has continued to discharge the functions of ED BPM, though under interim orders she is entitled to be paid allowances for that period and if the same has not been paid, the interest of justice demands a direction to be given regarding that.

9. In the result, the prayer of the applicant for a direction to the respondents 2 and 3 to appoint her as ED BPM, Perinjanam West is rejected. The application is disposed of with a direction to the respondents to announce the results of the selection and to appoint the selected candidate after terminating the services of the applicant in accordance with law and after paying her the ED allowance if any due to her.

10. There is no order as to costs.


(R. RANGARAJAN)
Administrative Member


(AV HARIDASAN)
Judicial Member

31.3.1993.

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