

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 534/2003

Dated Wednesday this the 27th day of August, 2003.

C O R A M

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

P.G.Girija
Part Time Sweeper
Arunapuram Post Office.
Residing at Koonaniyil House
Velliappally P.O.
Arunapuram - 686 574.

Applicant

(By advocate Mr.P.C.Sebastian)

Versus

1. The Sub Divisional Inspector of Post Offices
Palai Sub Division
Palai - 686 575.

2. The Postmaster General
Central Region
Kochi - 682 016.

3. The Union of India
represented by Secretary
Ministry of Communications
Department of Posts
New Delhi.

4. Naiju Thomas
Thekkumkattil House
Arunapuram.

Respondents.

(By advocate Mr.C.B.Sreekumar, ACGSC for R1-3)

The application having been heard on 27th August, 2003, 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 was appointed as a Part Time Sweeper in the Arunapuram Sub Post Office with effect from 1.6.95, finding that a vacancy of Gramin Dak Sevak Mail Deliverer would arise in Velliappally post office, submitted an application on 10.6.03 (Annexure A-6) seeking preference in the matter of appointment in terms of the Director General (Posts)'s instructions. Finding no response to the application made by her and that pursuant to A-5 notice dated 15.5.03, the 4th respondent and others had been

called for interview with a view to make recruitment from open market, the applicant has filed this application seeking to set aside the A-5 notice, for a declaration that the applicant is entitled to be considered for appointment to the post of GDS MD, Velliappally P.O. in preference to outsiders, in terms of the instructions contained in the letter of Director General (Posts) dated 6.6.88 and for a direction to the first respondent to consider the applicant's candidature for the post of GDS MD, Velliappally in preference to outsiders. It is alleged in the application that by not considering the request of the applicant for appointment giving preference in terms of A-3, the respondents are attempting to make direct recruitment totally ignoring the instructions contained in A-3 as also A-4.

2. The respondents in the reply statement do not dispute the fact that the applicant has been continuously working as a part time Sweeper since 1.6.95, but they dispute the entitlement of the applicant for preference on the ground that the appointment of the applicant not having been made through the intervention of employment exchange, she is not entitled to any preference, but can be considered only along with outside candidates.

3. We have heard the learned counsel on either side and have perused the material on record. The contention of the respondents that the applicant is not entitled to any preference as per A-3 notice because her name was not sponsored for appointment as part time sweeper, is no more tenable in view of the orders of this Tribunal in OA Nos.818/2000 and 936/2001. Under identical circumstances, this Tribunal held that as the applicants in those cases had been permitted to continue as part

time casual labour for a long time and had been appointed by the competent authority, the fact that their names were not sponsored by the employment exchange could not be held out to be a valid reason for denying them the benefit of the long service for preference for appointment to ED posts. We find that there is no reason to differ from the view taken. It is a fact that the applicant has been working continuously from 1.6.95 onwards till date. If the appointment was irregular and the service would not give any benefit to the applicant, the respondents should have resorted to a process of selection through employment exchange and made appointment to the post of part time sweeper. They did not do that but allowed the applicant to continue for more than 7 years. In these circumstances, we find no justification for not considering the applicant for appointment by giving preference in terms of A-3, ispite of repeated instructions contained in A-4.

4. In the light of what is stated above, we allow the application and direct the first respondent to consider the request of the applicant for appointment to the post of GDS MD, Velliappally, giving preference to her in terms of A-3 & A-4. despite the fact that the applicant's appointment as a part time sweeper was not routed through employment exchange.

5. The above exercise shall be completed and resultant order be issued within period four weeks from the receipt of a copy of this order. Only if the applicant or any other part time employee like her who has already applied for the post of GDS MD is found otherwise ineligible or unsuitable for appointment, recruitment from open market shall be resorted to.

Dated 27th August, 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

aa.


A.V. HARIDASAN
VICE CHAIRMAN