

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 537/89
T.A. No.

199

DATE OF DECISION 26.4.90

K. Abdul Majeed &
P. E. Mohammed Abdul Rasheed Applicant (s)

M/s K. Ramakumar &
Roy Abraham Advocate for the Applicant (s)

Versus

Union of India & 3 others Respondent (s)

Mr. T. P. M. Ibrahim Khan
(for R-1 to 3) Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. Mukerji, Vice Chairman

The Hon'ble Mr. A. V. Haridasan, 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)

The two applicants are Reserve Trained Pool candidates recruited for appointment as Postal Assistants in Manjeri Postal Division in Kerala Circle. The scheme of Reserve Trained Pool was introduced in 1980 by the Postal Department for providing a pool of candidates duly selected and trained for appointment in future vacancies against the Direct Recruitment quota. The first applicant was thus recruited in the second half of 1982 and the second applicant in 1983. Both of them completed the prescribed

training and have been employed in short term vacancies and paid wages at par with regular Postal Assistants, but unfortunately ^{so far} they have not been regularly appointed and absorbed as Postal Assistants. In this application dated 27.8.89 they have prayed that the respondents be directed to appoint them in the existing vacancies of Postal Assistants in the Manjeri Postal Division and sought declaration that appointments of the relatives of the deceased or invalidated P&T employees in preference to the RTP candidates should be declared as illegal. They have specifically challenged the appointment of respondent-4 who was appointed on compassionate grounds being the son of a Postal Assistant who was retired on invalidation on 11.2.88. While they do not oppose such appointment of the dependants of persons dying in harness or those who are needy, their contention is that such an appointment should not be at the cost of selected and trained RTP candidates who are waiting in the queue to get regular appointment.

2. According to the respondents, there are 4 unfilled vacancies in Manjeri Division, but these vacancies fall in the promotion quota and are not available to the RTP and ^{and} Of 7 vacancies of '89 these were filled by RTP candidates / candidates, the remaining 4 vacancies are to be filled ^{and} up by promotion. They have indicated that the applicants had to wait since 1982-83 for lack of vacancies. They have

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clarified that as against 4 RTP candidates appointed in 1987 and 3 in 1988 there were 2 and 1 appointments on compassionate grounds during these two years. No such appointment [✓] on compassionate grounds [✓] was made in 1989. Though, according to [✓] them, Annexure-A instructions refer only to compassionate appointments of dependants of deceased postal employees, the respondents have relied upon [✓] O.M. issued by the Department of Personnel & Training dated 30.6.87 at Exbt. R(b) in accordance with which son, daughter or near relative of a government servant retired on medical ground can also be given compassionate appointment if the family is in great distress. Accordingly, the respondent-4 was so appointed. They have referred to a ruling of the Supreme Court underlining speedy appointments on compassionate ground to justify the priority given to the appointment of respondent-4 over the waiting RTP candidates.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The competing claims of RTP candidates, promotee candidates and candidates for compassionate appointment were considered by this Tribunal in OAK 256/87 by its judgement dated 20.10.89 to which one of us was a party. The situation of RTP candidates being kept waiting for their regular appointment for years was deprecated and it was suggested that the Postal Department

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may consider as a special dispensation to absorb the RTP candidates against the vacancies which had been kept unfilled due to the ban. It was also noticed that while the ban on filling up of posts was imposed on the Direct Recruitment quota, it did not extend to the promotion quota. It was also observed that appointments on compassionate grounds are being made against vacancies arising in the Direct Recruitment quota only and it was felt that both the Direct Recruitment as well as the Promotion quotas should share the compassionate appointments proportionately. It was also suggested that a Circle-wise seniority list of RTP candidates of different Divisions should be prepared and vacancies filled ~~on~~ Circle-wise ^{6/} ~~back~~ on the basis of that seniority list. On the same ^{8/} lines we dispose of this application also with the following directions:

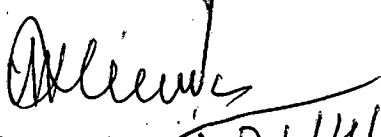
- (a) Respondents 1 to 3 should consider absorbing the RTP candidates in the waiting list of Manjeri Division by filling up the direct recruitment vacancies which have been kept unfilled due ^{to} the ban in the same proportion in which the promotion quota vacancies have been filled up from year to year in spite of the ban;
- (b) Respondents 1 to 3 will consider getting the compassionate appointment vacancies already ^{allocated} filled up ^{6/} between the outsider and the promotion
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quota vacancies in the same proportion which existed in assignment of normal vacancies between these two quotas and fill up the direct recruitment vacancies so released, ^{appointing} by the RTP candidates in accordance with ~~the~~ relevant rules and instructions.

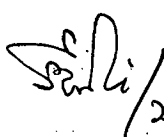
- (c) Respondents 1 to 3 may consider as a one-time measure drawing up a Circle-wise seniority list of RTP candidates of different Divisions and offer vacancies on a Circle-wise basis in accordance with that seniority list and consider refraining from holding further examination for RTP candidates for the entire Kerala Circle till the RTP list for the whole of Kerala is exhausted.
- (d) If, on consideration of (a) to (c) above, vacancies emerge in the Direct Recruit/outsider quota, the same should be filled up by the RTP candidates including the applicants strictly in accordance with the seniority and the relevant rules and instructions.

It is made clear that Respondents 1 to 3 are at liberty [&] on (a), (b), (c) and (d) above [&] to take any decision [&] as a result of consideration on the above lines but the aforesaid consideration should be completed expeditiously and as far as possible within three months from the date of communication of this order.

4. There will be no order as to costs.


(A.V. Haridasan)
Judicial Member

26/4/90


(S.P. Mukerji)
Vice Chairman

26.4.90