

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.56/2006.

Monday this the 17 th day of July 2006.

CORAM:

**HON'BLE MR. K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE MR. N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

Sobhana Sivadasan,
W/o Sivadasan,
P/T Sweeper at Velur Post Office,
Residing at Pondiyadath House,
Velur P.O., Thrissur-680 601. Applicant

(By Advocate Shri P.C. Sebastian)

Vs.

1. The Sub Divisional Inspector of Post Offices,
Wadakkancherry Sub Division,
Wadakkancherry, Thrissur .
2. The Senior Superintendent of Post Offices,
Thrissur Division, Thrissur.
3. The Union of India, represented by
Secretary to Govt. of India,
Ministry of Communications,
Department of Posts,
Dak Bhavan, New Delhi. Respondents

(By Advocate Shri P.J.Philip, ACGSC)

The application having been heard on 17.7.2006
the Tribunal on the same day delivered the following

ORDER

HON'BLE MR. K.B.S.RAJAN, JUDICIAL MEMBER

The grievance of the applicant in this case is that the provisions of order dated 6.6.88 (A3) are not being invoked in respect of the applicant. The brief facts of the case as per the applicant are as under:

a) The applicant was engaged as Part time Casual Labourer w.e.f.28.5.2001 and she has been continuing in the said capacity since then. The applicant is presently engaged to work in the existing vacancy of GDS Mail Deliverer at Kiralur Branch Office under Velur Sub Post Office w.e.f. 7.11.05 on a temporary basis with an artificial break of service for

one week on completion of 90 days.

b) Provision exists for giving preferential treatment to Full time casual labourers and part time casual labourers in respect of appointment to the ED Posts provided they fulfill all the conditions and have put in a minimum of one year service.

c) The applicant submitted a representation on 19.7.04 for consideration of her candidature in respect of some vacancies in the post of GDS Mail Career at Velur and Kiralur Branch P.Os. However, there has been no response from the respondents.

2. The applicant, therefore, seeks the following reliefs:

- i. to declare that applicant is eligible and entitled to be considered for appointment in the existing vacancy of GDS Mail Deliverer at Kiralur Branch Post Office or any other GDS vacancy in terms of Annexure A-3.
- ii. to issue appropriate directions/orders to the respondents to consider applicant's claim for appointment as GDS Mail Deliverer Kiralur Post Office in terms of Annexure A-3 instructions and to issue necessary orders within a time frame as deemed fit for this Hon'ble Tribunal.

3. The respondents have contested the O.A.. According to them, A-3 order dated 6.6.88 can be invoked in favour of the applicant, only, if the applicant's engagement as Part time Casual Labourer was through Employment Exchange. It is also stated by them that, the GDSs who become surplus are to be accommodated in any other existing vacancies and as such, the vacant posts of GDSMC and GDSMD at Kiralur are not proposed to be filled up regularly at present.

4. The applicant in her rejoinder has contended that in so far as the requirement of sponsorship by Employment Exchange is concerned, in one of the latest judgements dealing with the subject matter, (W.P.(c) 33732/05) the Hon'ble High Court of Kerala has held that, having appointed people and having gained experience as Casual Labourers, such casual labourers cannot be prevented from participating in the selection and appointment, solely on the ground that they were not originally engaged through Employment Exchange.

5. Heard the arguments advanced by counsel on both sides and the documents have also been perused. Order dated 6.6.88 is concerned it distinguishes Full time casual labourers and Part time casual labourers for the purpose of preference for regular appointment in Group 'D'. In the very same order, the requirement of sponsorship through Employment Exchange has been specifically spelt out for casual labourers but the order is conspicuously silent in this regard in respect of part time casual labourers. It has been stated by the counsel for the applicant that the practice in the department is also not to engage part time casual labourers through employment Exchange. Counsel for the respondents is however not in a position to confirm the same. Nevertheless, taking into account the decision of the Hon'ble High Court referred to by the applicant in the rejoinder. However the judgement dated 5.12.2005 in Writ petition (Civil) No.33732 of 2005 this requirement of sponsorship may have to be waived in the case of the applicant.

6. If the department, as a matter of policy, has decided to fill up the post of GDSMD at Kiralur Branch Office or in any other branch from out of the surpluses this Tribunal cannot object to the same with a view to permitting the applicants for consideration for appointment as GDs. However, if the department desires to fill up the vacancies otherwise than by accommodating surpluses obviously, invoking the order dated 6.6.88, they have to give preference to the applicant who has been working as a Part time Casual Labourers for the past five years.

7. In view of the above, the O.A. is disposed of with a direction to the respondents to consider the case of the applicant for the post of GDSMD at Kiralur P.O.or in the next available vacancy if the respondents decide to fill up the post other than by way of accommodating the surplus. No costs.

Dated the 17 th July, 2006.


N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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K.B.S.RAJAN
JUDICIAL MEMBER