

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 56/90 199
XXX-XXX-

DATE OF DECISION 27.6.1990

V.R.Vijayan Applicant (s)

Mr.MR Rajendran Nair Advocate for the Applicant (s)

Versus

The Post Master General, Respondent (s)
Kerala Circle, Trivandrum & 2 others

Mr.TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

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

and

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? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that it may be declared that his services as E.D. Mail Carrier at Pallithode Post Office is not liable to be terminated except in accordance with the provisions of Chapter-V.A of the Industrial Disputes Act, the records relating to the selection for regular appointment as E.D. Mail Carrier at Pallithode Post Office held on 16.1.1990 may be called and the same may be set aside, and that the respondents may be directed to consider the applicant for regular appointment by giving due weightage for services rendered by him. The brief facts of the case of the applicant in the application narrated thus.....

2. The applicant joined ~~the~~ service as an E.D. Mail Carrier at Pallithode Post Office on 12.11.1986 in the ~~which~~ vacancy/occurred consequent on the putting off duty of Shri N.Vijayan who was a regular incumbent in that post. He has been working from that date continuously. Shri N.Vijayan was dismissed from service on 30.8.1988, when the department initiated proceedings for regular selection for appointment as E.D. Mail Carrier, Pallithode, apprehending termination of his services following such regular selection and appointment, the applicant ~~was~~ filed OA 555/88, praying for a direction to the respondents not to terminate his services and also to consider him for regular appointment. The OA was disposed of on 20.10.1989 with a direction to the respondents to consider the applicant also along with the other candidates. The applicant who has passed ~~the~~ 8th standard and is a resident of delivery area of Pallithode Post Office and who is continuing as an E.D. Mail Carrier satisfies all the requisite qualifications for appointment to that post on a regular basis, is also entitled to be given due weightage for the services rendered by him. But on 16.1.90 when the applicant reported for interview for the regular selection, he was plainly told that he would not be appointed. Apprehending that the respondents would not consider his case though he is fully qualified and is entitled to weightage, especially being a member of the Scheduled Caste community and apprehending termination of service in the event of another persons being selected, the

applicant has filed this application, praying that his services are not liable to be terminated except in accordance with the provisions of the Chapter-V.A of the Industrial Disputes Act, and that he may also be directed to be considered for appointment giving weightage for his provisional service.

3. In the reply statement filed by the respondents they have contended that the provisions of Industrial Disputes Act do not apply to the E.D. Agents who are governed by a separate set of rules. However, they have stated that in the interview held on 16.1.90, the applicant has also been considered, and that though normally the applicant would not be eligible for consideration since he was not sponsored by the Employment Exchange in terms of the directions on this Tribunal in OA 555/88, he has also been considered, and that the results of the interview are yet to be announced. It has been further stated that preference, if any, available to Scheduled Caste will be given and that, if the applicant comes out successful, he would be appointed. But it has been contended that no preference can be given for the experience which the applicant is having as a provisional E.D. Agent. The respondents have contended that, as the interview has been properly held and as the result is yet to be announced, there is absolutely no cause of action for the applicant, and that the application may be dismissed.

4. We have heard the arguments of the learned counsel on either side. We are of the view that the applicant has rushed to this Tribunal without a real cause of action. In terms of the direction of this Tribunal in OA 555/88, the applicant was called for interview and the result of the interview is yet to be announced. As ~~the~~ result has not yet been announced, we are of the view that the applicant should not have rushed to this Tribunal apprehending that his case would not be properly considered. There is an averment in the application that he was plainly told on 16.1.90 when he appeared for interview that, he would not be given appointment. But it has not been made clear ~~xxxx~~ as to who told him that he would not be appointed. The respondents in their reply statement have stated that the applicant would be considered for appointment along with the other candidates, that preference would be given to the Scheduled Caste, and that if he comes out successful, he would be appointed. So we find that, there is absolutely no basis for the apprehension of the applicant that his case would not be considered properly and that his services would be terminated in the event of his not being selected in violation of the provisions of the Chapter-V.A of the Industrial Disputes Act. That the Postal department is an industry and the E.D. Agents are entitled to the protection of the Industrial Disputes Act have been the view continuously taken by this Tribunal and also by the various High Courts. If the services of the applicant are terminated in violation of the provisions under Chapter-V.A of the Industrial Disputes Act, he will be at liberty

to approach this Tribunal on happening of that eventuality.

But at present the applicant cannot be justified in rushing to the Tribunal apprehending that the respondents would act in violation of the provisions of the Law and Rules.

5. In view of what is stated above, finding that the applicant has rushed to the Tribunal under a misapprehension without a proper cause of action, we dismiss the application. Anyway, we direct the parties to bear their own costs.



(A.V.HARIDASAN)
JUDICIAL MEMBER



27.6.90
(S.P.MUKERJI)
VICE CHAIRMAN

27.6.1990