

Open Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 557/91

~~XXXXXX~~

199

DATE OF DECISION 20-11-91

Shri T.K. Narayanan Nair Applicant (s)

Mr. P.S. Biju Advocate for the Applicant (s)

Versus

The Senior Supdt. of Post Offices, Respondent (s)
Alwaye Division, Alwaye and another,

Shri Kochunni Nair for R-1 & 2 Advocate for the Respondent (s)
Shri T.V. George for R-3 and 4

CORAM:

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

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

N.V. Krishnan, M(A)

The applicant was regularly selected and appointed as EDDA at Puliyanam Post Office by order dated 11-5-81. He continued in that post until he met with an accident some time in 1985, which rendered him unfit to continue in that job and he had perforce to resign from the job allegedly at the instance of the 2nd respondent who refused to grant leave. The applicant submits that in the peculiar circumstances in which he had to resign, he may now be considered as a candidate for the post

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of EDBPM Puliyanam Post Office which has fallen vacant, for which action has been initiated to select a regular incumbent. The applicant submits that his name has not been sponsored by the Employment Exchange. He has admittedly, registered in the concerned Employment Exchange from 1991, only. The candidates sponsored by the Employment EXchange, for being considered for the post of EDBPM have been registered much earlier. It is under these circumstances, ^{viz 4} the applicant has sought the following reliefs:

"...Direct the additional 3rd respondent to include the name of the applicant also for being considered for selection to the post of EDBPM, Puliyanam Post Office. And..."

2. The respondents 1 and 2 filed a reply statement substantially admitting the above facts except that they contend that the applicant voluntarily resigned from the post and the second respondent had no hand in this matter. As he was not sponsored by the Employment Exchange for the present selection which is necessary in accordance with the standing instructions of the Department, he is not being considered. Therefore R-1 and 2 contend that no relief is due to the applicant. R-3 and 4 Viz. the Employment Officer, Alwaye and the Employment Officer, Kakkanad respectively have stated that as the applicant has registered his name in the Employment Exchange only in February 1991 and as there were number of seniors to him being sponsored his name

was not sponsored.


5. We have heard the parties. It is true that only candidates sponsored by the Employment Exchange are considered by the Department for appointment to ED posts. However, in the present case, there are some special features which requires sympathetic consideration. The applicant was holding the post of EDDA in the same post office on a regular basis for about 3 years. The only reason why he had to resign was that he met with an accident in 1985.

^{Has} ~~He~~ this accident ^{is} ~~been~~ not taken place, the applicant would have continued in the post. The resignation was because of this accident which prevented him from discharging his duties. That is, ^{the resignation} ~~was~~ for good and valid reasons ^{and he never intended to abandon the job.} ~~and~~ This aspect requires to be considered on sympathetic grounds. The learned counsel of the applicant submitted that his case be considered along with those of other without adverting to his earlier experience. Hence we are of the view that the interest of justice will be met if we issue suitable directions to respondents 1 and 2 to take into account his candidature also in the ensuing selection of EDBPM on sympathetic grounds.

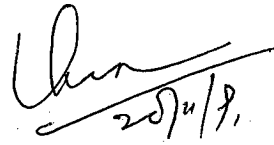
6. Accordingly, we dispose of this application with a direction to R-1 and 2 to consider applicant also for selection for appointment to EDBPM, Puliyanam Post Office or the post of EDMC in the same post

office which is reported to have fallen vacant subsequent to the filing of this application, even if he has not been sponsored by the Employment Exchange, along with other candidates sponsored by the Employment Exchange. As this is a concession to the applicant in the special circumstances of his case, his claim should be considered without assigning any weightage to his past service.

7. O.A. is disposed of as above. No costs.


(N. Dharmadan)
Member (Judicial)

20.11.91.


(N.V. Krishnan)
Member (Administrative)

20-11-91