

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.57/04

Tuesday this the 10th day of February 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

G.Sivadasan Nair,
S/o.Govinda Pillai,
Group D (Provisional),
Punalur Head Post Office.

Applicant

(By Advocate Mr.Sasidharan Chempazhanthiyil)

Versus

1. Superintendent of Post Offices,
Pathanamthitta.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Union of India represented by
its Secretary, Ministry of Communications,
New Delhi.
4. K.Thankachan,
GDSMD Maniyaru,
Working as Postman, Punalur.

Respondents

(By Advocate Mr.Sunil Jose,ACGSC)

This application having been heard on 10th February 2004
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant commenced his service as E.D.Agent on 21.12.1973. In the seniority list of E.D.Aagents in Pathanamthitta Postal Division as on 1.1.1996 his name was at Serial No.102 while the name of the 4th respondent was at Serial No.132. As a senior E.D.Agent he was earlier asked whether he was willing to be posted as Postman. Since no selection was made for appointment to the post of Postman the applicant was offered appointment as a Group D employee on the basis of his seniority initially on a provisional basis. The applicant was therefore

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appointed as a Group D employee with effect from 20.10.2000 on provisional basis. His present grievance is that for the vacancies of Postman in the Pathanamthitta Postal Division for the period between 1998 to 2002 the respondents did not consider his candidature and selected and appointed the 4th respondent who is junior to him. Finding that in the order dated 28.2.2003 the 4th respondent was selected for appointment to the cadre of Postman, his name was not included. The applicant filed an O.A.485/03 which was disposed of permitting the applicant to make a comprehensive representation to the 1st respondent and directing the 1st respondent to dispose it of with a speaking order. In pursuance to the above liberty given the applicant submitted a representation which was considered by the 1st respondent and the impugned order Annexure A-10 dated 2.1.2004 has been issued citing reasons why the applicant was not appointed as a Postman. Aggrieved by non-inclusion of his name in the list of persons selected and appointed in the post of Postman in Annexure A-7 dated 28.2.2003 and aggrieved by the order Annexure A-10 the applicant has filed this application seeking to set aside impugned orders Annexure A-7 and Annexure A-10 for a declaration that he has a right to be considered for appointment in a Postman vacancy that had arisen before his appointment as a Group D vide Annexure A-5 and for a direction to the 1st respondent to regulate the appointment of Postman and Group D on that basis by reviewing Annexure A-5 after giving notice to the affected parties and for a direction to the 1st respondent to grant all consequential benefits treating the applicant as a Postman appointee with effect from the date from which he became eligible to be considered for appointment as Postman that had arisen in 1998, 1999 and 2000. It is alleged in

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the application that the non consideration of the applicant senior E.D.Agent for appointment as Postman for the vacancy that arises after 1998 is unreasonable and discriminatory.

2. We have perused the application and the impugned orders and all other materials brought on record very carefully and heard Shri.Vishnu S Chempazhanthiyil, learned counsel of the applicant and Shri.Sunil Jose, learned counsel of the respondents. Shri.Vishnu S Chempazhanthiyil submitted that as it is evident from the material on record that the 4th respondent was far down in the gradation list of E.D.AGENTS as on 1.1.1996 action on the part of the respondents to totally discard the seniority and merit of the applicant as a senior E.D.Agent for appointment to the post of Postman merely for the fact that the applicant had been selected and appointed on provisional basis as a Group D employee is arbitrary, irrational and violation of service condition and therefore it is a fit case for Tribunal to intervene, exercise jurisdiction and grant reliefs. Learned counsel of the respondents on the other hand argued that the applicant has not placed the real facts before the Tribunal in his application that the applicant had as early as on 27.10.2000 declared that he has been regularised on a Group D post and had requested release of the severance amount which had been sanctioned to him on 29.3.2001 and this fact has not been mentioned in the application. In all the DPCs which were held prior to the appointment of the applicant as a Group D employee only seniors of the applicant have been selected and appointed. The applicant who had severed his connection with the E.D.Post with effect from 29.3.2001 by receiving the severance amount of Rs.20,000 could not be considered for selection to the post of

Postman which was held in the year 2003. Since the applicant was no more a E.D.Agent with effect from 29.3.2001 he had no right to be considered as a E.D.Agent for appointment to the post of Postman argued the learned counsel. The applicant had inter-alia stated in his representation that his case for promotion to the post of Postman from Group D was not considered which also has been replied in the impugned order (Annexure A-10) stating that in the year 2002 when Group D official was considered for Postman the applicant having not completed two years of regular service was not permitted to appear in the examination. Learned counsel of the respondent states that as the selection for appointment to the post of Postman in which the 4th respondent was selected and appointed was properly held considering all the eligible persons among the E.D.Agents and since the applicant was no more a E.D.Agent, he does not have a legitimate grievance which calls for redressal.

3. On a careful analysis of the facts and circumstances revealed from what is stated in the application, Annexures as also the submissions of the learned counsel, we are of the considered view that the applicant does not have a subsisting or legitimate grievance to invoke the jurisdiction of this Tribunal. Since the applicant had on his declaration stated that he had been regularly appointed as a Group D employee and the respondents having sanctioned and paid to him the severance amount on 29.3.2001 thereby severing the applicant's relationship with the E.D.Post, thereafter in the process of selection which was started in 2002 and which culminated selection and appointment of the 4th respondent in February 2003 the applicant had no right to be considered and the respondents cannot be



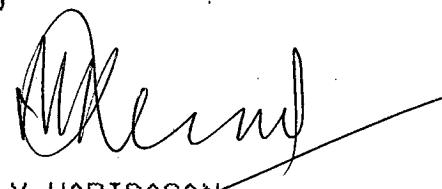
faulted for not considering the applicant. We do not find any grievance of the applicant which calls for admission of the application and further deliberation. Therefore the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

(Dated the 10th day of February 2004)

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H.P.DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN