

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No.
XXXXXX

564 1990

DATE OF DECISION 20.12.1990

P.Poothambaran Applicant (s)

M/s K Raveendran & S U Nazar Advocate for the Applicant (s)

Versus

UOI rep. by the Secy., Min. of Respondent (s)
Communications, N.Delhi & Another

Mr.TPM Ibrahim Khan(for R1&2) Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.B.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?
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

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

The applicant is aggrieved by the stipulation in the notification inviting candidates for the post of Extra Departmental Branch Post Master, Vellayoor Branch Post Office, that the candidate should have registered their names with the Employment Exchange before 19.9.1980. He prays that the respondents may be directed to consider his candidature without reference to the said stipulation.

The applicant, an ex-army personnel having 19 years of military service who had worked as Extra Departmental Delivery Agent at Vellayoor Post Office from 1.1.1988

till 18.7.1988 had filed OA K-368/88 before this Tribunal, when his candidature was not accepted on the ground that he had crossed the upper age limit of 30 years. This application was allowed and the respondents 1 and 2 were directed to consider the applicant also for appointment to the post. Though the applicant was also interviewed, he was not selected. The applicant presumes that his non-selection was on account of ill-feeling in the minds of the respondents created by his approaching the Tribunal filing OA K-368/88. Anyway, the grievance of the applicant in this application is that in the notification issued by the 3rd respondent, the District Employment Officer, Malappuram, calling for applications for the post of Extra Departmental Branch Post Master, Vellayoor, there was a stipulation that the candidates should have registered their names in the Employment Exchange before 19.9.1980, and that cut-off date has been arbitrarily fixed to exclude him from the field of consideration. It is alleged in the application that to discriminate persons who have registered with the Employment Exchange on the basis of the dates of the registration is violate of Article 14 and 16 of the Constitution, and therefore, the applicant prays that the respondents may be directed to consider his candidature without insisting on the impugned stipulation.

2. In the reply statement filed by the 2nd respondent on behalf of the respondents 1 and 2, it has been stated

that the non-selection of the applicant for the post of Extra Departmental Branch Post Master, Vellayoor was because of the fact that another person who was more meritorious had to be selected and that it had nothing to do with the fact that the applicant had sought legal remedy before this Tribunal. Regarding the impugned clause of the notification issued by the District Employment Officer, the 3rd respondent, the respondents 1 and 2 have contended that they had not given any such instruction to the 3rd respondent, and that for the insertion of the impugned clause in the notification, they are not responsible. Anyhow, they have contended that as 10 persons were nominated by the third respondent, the interview was held on 6.7.1990, and that the process of selection has been held up owing to the interim order issued from this ^{The respondents pray} ~~Tribunal,~~ ^M that this application may be dismissed as they are not responsible for the insertion of the impugned condition in the notification by the third respondent. Though the 3rd respondent was served with notice, neither did he appear, nor was there any representation on his behalf.

3. We have heard the learned counsel for the applicant and respondents 1 and 2, and have gone through the pleadings and documents produced.

4. Though the applicant has averred in the application that there was a stipulation in the notification calling for applications to the post of Extra Departmental Branch

Post Master, Vellayoor, that the candidates should have registered their names before 19.9.1980, a copy of this notification has ^{not} ~~been~~ produced. But in the reply statement filed on behalf of the respondents 1 and 2, the averment in the application that there was such a stipulation in the notification has not been contraverted.

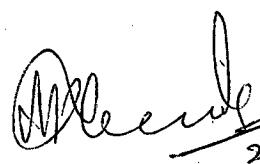
They have contended that they are not responsible for the objectionable clause in the notification, as they had not given any such instructions to the District Employment Officer in this regard. The third respondent who has published the notification, inspite of ~~the~~ notice being served has not appeared before us and filed any statement. So the averment in the application that the notification contained a stipulation to the effect that the candidates should have registered their names with the Employment Exchange prior to 19.9.1980 has to be as taken ~~admitted~~. The question is whether it is permissible to discriminate persons who had registered with the Employment Exchange into two classes namely, those who had registered prior to 19.9.1980 and those who had registered thereafter. The reasonableness of such a classification and the objective sought to be achieved by it is not forthcoming as the third respondent who has included such a stipulation in the notification has not come forward (to) file a statement. We are of the view that there is no justification for such a discrimination and

especially when the 2nd respondent has not directed the third respondent to incorporate any such condition, the third respondent should not have inserted such a stipulation discriminating those who had registered with the Employment Exchange before and after 19~~69~~.1980. Therefore, we are of the view that the impugned stipulation in the notification issued by the District Employment Officer is unreasonable discriminatory and violative of Article 14 and 16 of the Constitution and therefore, liable to be struck down.

5. Since the selection process in the midway was
pursuant to the notification which is discriminatory and
violative of Article 14 and 16, the respondents will have
to be directed to drop further proceedings pursuant to
the selection process and to recommence the proceedings
after publishing a fresh notification without any res-
triction as to the date of registration with the Employ-
ment Exchange.

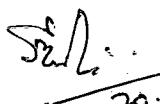
6. In the result, the application is allowed. The respondent: two is directed to drop the selection proceedings pursuant to the notification issued by the third respondent, ~~xxx-xxx-xxx/xxx-xxx-xxx/xxx-xxx-xxx date~~. The third respondent is directed to issue a fresh notification inviting applications for the post of Extra Departmental Branch Post Master, Vellayoor without putting any restriction

should
that the candidates ~~h~~ have registered with the Employ-
ment Exchange on any particular date. The second res-
pondent is directed to consider all the candidates who
will be responding to such a notification and to complete
the process of selection in accordance with law. There
is no order as to costs.



20.12.1990

(A.V.HARIDASAN)
JUDICIAL MEMBER



20.12.90

(S.P.MUKERJI)
VICE CHAIRMAN

20.12.1990