

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 569/2003

Dated Thursday this the 23rd day of October, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

B.Janardhanan Nair
S/o Bhargavan Pillai
Postman, Tirumala P.O.
Trivandrum.

Applicant.

(By advocate Mr.Thomas Mathew)

Versus

1. Superintendent of Post offices
South Postal Division
Trivandrum.
2. Chief Post Master General
Kerala Circle, Trivandrum.
3. Union of India represented by
its Secretary, Department of Posts
New Delhi.

Respondents.

(By advocate Mrs.Rajeswari A., ACGSC)

The application having been heard on 23rd October, 2003,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who has been working as a Gramin Dak Sevak
Mail Deliverer (GDSMD for short) for the last 21 years, on his
willingness to be appointed on adhoc basis as a Group-D and being
placed at Sl.No.43 in the A-3 panel was appointed as Postman,
Thirumala, on adhoc basis by A-4 order dated 7.11.2002. Coming
to know that the respondents were likely to issue orders
replacing the applicant by making provisional appointment of some
other person, the applicant has filed this application for a
declaration that he is entitled to continue as Postman,
Thirumala in the vacant post till a regular selection and

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appointment is made and for a direction to the respondents not to terminate the adhoc services of the applicant as Postman/Group-D while retaining juniors of the applicant as Postman/Group D on adhoc basis.

2. The respondents in their reply statement has found the following conclusion:

Since the vacancies in Group-D/Postman could not be filled on regular basis, willingness of GDS working on these posts was called for. A list (Annexure A-1) was prepared on that basis. Finding that many senior GDS for want of information could not express willinngess, an additional list (Annexure A-2) was prepared. The applicant was put to work on Group-D on the basis of the willingness. However, complaints from senior GDS having been received and since this Tribunal in its orders in OA 768/2002 and 60/2003 has decided that while putting GDS to work against Group-D/Postman, seniority of willing GDS should not be ignored, if GDS who are senior to the applicant who is at Sl.No. 216 express their willingess, the applicant may have to be sent back to perform the duties of his post as GDS.

3. The applicant in his rejoinder has stated that there are several juniors of the applicant who are continuing on adhoc basis.

4. We have gone through the pleadings and the material on record and have heard Sh.Thomas Mathew, the learned counsel of the applicant and Smt.Rajeswari A, the learned ACGSC appearing for the respondents. Sh.Thomas Mathew argued that the applicant was appointed on adhoc basis on the basis of placement in A-3

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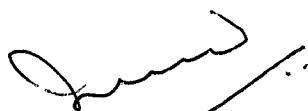
panel and that the move to replace the applicant by another provisional appointee would be against the dictum of the Apex Court in Pyara Singh's case. He further argued that the statement in the reply that allowing the applicant to continue would be against the directions contained in the order of this Tribunal in OA 768/2002 and 60/2003 is not correct because there are three or four juniors of the applicant continuing. The learned counsel for the respondents on the other hand argued that the application is premature because no order replacing the applicant has been issued. Further, the action contemplated by the respondents in giving an opportunity to senior and willing GDS is in conformity with the general principles of the rules on seniority as also in accordance with the orders of this Tribunal in OA 768/2002 and 60/2003 and therefore the applicant does not have a legitimate grievance which calls for redressal.

5. We do not find any substance in the arguments of the applicant while we find that the arguments made on behalf of the respondents are valid. The Apex Court in Pyara Singh's case has stated that it is not proper to replace a provisional appointee by another one. The fact circumstance of that case was totally different. Here GDS are put to work in Group-D post and as postman on the basis of their seniority if they are willing. Only if the senior is not willing, the junior is to be put to work. It is evident from the pleadings as also from the perusal of the orders in OA 760/2002 and 60/2003 that there had been many senior GD Sevaks who did not get opportunity to work against Group-D/Postman because they could not express willingness for want of information and it was in that background the direction was given not to ignore the element of seniority while putting

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GDS to work against the post of Postman/Group-D. The respondents are preparing to call for willingness of all GDS to work against Group-D/Postman's post and to put the willing GDS to work on such post on the basis of the seniority among the willing. Such an action is well in conformity with the principles of equality as also equity. Further no order has so far been issued to the detriment of the applicant. Therefore the application does not disclose a valid and present cause of action.

6. In the light of what is stated above, the application is dismissed in limine. No costs.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

aa.



A.V. HARIDASAN
VICE CHAIRMAN