

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXXX

570

1991

DATE OF DECISION 26.8.1991

K.Sreekumaran

Applicant (s)

M/s PS Biju & CS Ramanathan

Advocate for the Applicant (s)

Versus

UOI rep. by the Director General, Deptt. of Posts, Min. of Commns., New Delhi & 3 others

1. Mr.KA Cherian, ACGSC(R.1-3) Advocate for the Respondent (s)
2. Mr.OV Radhakrishnan (for R.4)

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?
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)

This case is an offshoot of another application OA 406/89.

The applicant is working as Extra Departmental Packer, Sub Post Office, Kottayi under the third respondent. When the post of Extra Departmental Sub Post Master, Varode-Kottayi fell vacant the third respondent notified the vacancy, to the Employment Officer on 9.3.1989 requesting him to provide a list of candidates. The 4th respondent and some other persons appeared before the Employment Officer on 7.4.1989. On 8.4.1989 the applicant submitted an application to the third respondent for a transfer to the above post. The third respondent kept his case for consideration alongwith

other applicants. A list of candidates sponsored by the Employment Exchange was received by the third respondent on 24.4.1989. Thereafter the application submitted by the applicant for transfer was considered and it was decided to appoint him in that post. Coming to know that, steps to appoint the applicant as EDSPM, Varode-Kottayi were in progress without considering candidates sponsored by the Employment Exchange, the 4th respondent made a representation to the third respondent with copies to the Employment Officer and the Post Master General, Kerala. Thereafter the 4th respondent was directed to submit an application in the prescribed form with attested copies of certificates, which he complied with. Since he did not get any further information and coming to know that a decision to appoint the applicant in that post was taken, the 4th respondent filed OA 406/89 challenging the above decision and for a direction to the authorities of the Postal Department to make a regular selection and appointment to that post considering all the candidates sponsored by the Employment Exchange. This application was allowed by order dated 24.4.1990 to which one of us (Mr.A.V.Haridasan, Judicial Member) was a party, quashing the decision to appoint the applicant as EDSPM, Varode-Kottayi and directing the department to make an appointment to that post after considering all the eligible candidates who were sponsored by the Employment Exchange also. In obedience to the above

direction the Sr. Supdt. of Post Offices, the third respondent conducted an interview on 25.5.1990 in which the applicant, the 4th respondent and the other candidates were invited to participate and the 4th respondent who had obtained the highest marks in the SSLC Examination among the eligible candidates was selected and appointed. Immediately after the disposal of the OA 406/89, the applicant in this case had filed a review application as RA.83/90 which was also dismissed. The applicant has filed this application challenging the selection and appointment of the 4th respondent as EDSPM, Varode-Kottayi and for a direction to the third respondent to appoint him in that post. It has been averred in the application that, according to the instructions contained in DG, P&T's letter No.43-27/85-Pen. (FDC & Trg) dated 12.9.1988, a copy of which is at Annexure-AI, if an ED Agent prefers to work against another ED Post falling vacant in the same office or in the same place, he is to be appointed to that post if he is suitable and eligible without being subjected to any selection process inviting applicants from Employment Exchange, and that as the decision in the OA 406/89 is against the above instructions, the same is not correct.

2. We have heard the counsel for the parties, and have also carefully perused the pleadings and documents.

3. While deciding OA 406/89, this Tribunal has taken notice of the instructions contained in the letter of the DG, P&T, Annexure-AI which was produced and marked as

and Annexure-AII in that case carefully/considering the terms of the above letter, the Bench concluded that, the relaxation in the case of ED Agents contained in the above letter was that, it was not necessary for them to be nominated by the Employment Exchange, and that it was not permissible to exclude all other eligible candidates who had applied for the post and to appoint an ED Agent working in another post especially when he had made the application only after the authorities had initiated the selection process issuing a notification calling for applications and after intending candidates had submitted their applications in response to thereof. In this application the applicant has not put-forth any new point for consideration. In our order in the review application, it was made clear that there was no error or defect in the order in OA 406/89. If the applicant was aggrieved by that order the proper remedy for him would have been to challenge the order passed in OA 406/89 before the Hon'ble Supreme Court. The selection and appointment of the 4th respondent is challenged only on the ground that, when an ED Agent applies for a transfer it is not necessary for the department to make a process of selection, and that the department had gone wrong in doing so in this case. The very same case of the applicant was considered and rejected in the order of the Bench in OA 406/89. Apart from the facts that the applicant has been working as ED Packer

he has not averred that he has any better qualification than the 4th respondent who has been adjudged to be the best among the candidates. Therefore, we do not find any merit in this application.

4. In the conspectus of facts and circumstances, the application fails and the same is dismissed without any order as to costs.



(A.V.HARIDASAN)
JUDICIAL MEMBER



(S.P.MUKERJI)
VICE CHAIRMAN

26.8.1991