

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 573 of
T. A. No. 1991

DATE OF DECISION 27-11-1991

A. Rahel

Applicant (s)

Mr. Thomas Mathew

Advocate for the Applicant (s)

Versus

Sr. Superintendent of Post
Offices, Quilon & 2 others

Respondent (s)

Mr. KA Cherian, ACGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member

&

The Hon'ble Mr. AV 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 AV Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant has prayed for the following reliefs:

"(A) To direct the respondents to consider the applicant for appointment as EDBPM, Velichikala P.O. on a regular basis.

(B) To declare that Annexure-A8 order No.83/80/Velichikala dated 27.5.1991 selecting Shri Eswara-chandra Vidyasagar EOMC, Velichikala as EDBPM, Velichikala is illegal and quash it.

(C) To allow the applicant to realise the cost in these proceedings from the respondents."

2. The applicant had worked as Extra Departmental Branch Post Master (EDBPM) in Velichikala Branch Post Office during different spells for a total number of 518 days from 1981

onwards as a substitute of the regular incumbent in that post namely her husband G Varghese. During the last spell the applicant was put in-charge of the post of EDBPM on Mr Varghese being regularly appointed as Post Master w.e.f. 10.3.1991 for 15 days ending on 24.3.1991, but this arrangement continued as a regular appointment was yet to be made to man the post. While so, the applicant filed this application praying that considering her past service as a substitute EDBPM, the respondents should be directed to consider her for appointment to that post on regular basis. During the pendency of this application by an interim order dated 23.4.1991, a direction was issued to the respondents that the applicant should be allowed to continue provisionally as EDBPM, Velichikala Branch Post Office till a regular appointment is made. While the applicant was continuing in the post of EDBPM, Velichikala, the respondent-1 appointed the respondent-3 who was working as ED Mail Carrier in the same Post Office as EDBPM, Velichikala by order dated at Annexure-A8. The applicant has subsequently amended this application incorporating a prayer for a declaration that the Annexure-A8 order dated 27.5.1991 appointing respondent-3 as EDBPM, Velichikala is illegal and unjustifiable.

3. The application is resisted by the respondents. In the reply statement filed it has been contended that the applicant who had been working as a substitute in place of the regular incumbent in the post of EDBPM, Velichikala has not acquired any right for regular appointment in that post. It has also been contended that the appointment of respondent-3 as EDBPM

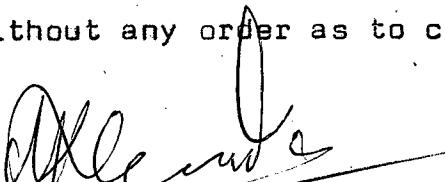
was justified in view of the instructions contained in the PMG, Deptt. of Posts letter No.43-27/85-Pen(EDC & Trg) dated 12.9.1988 wherein it has been laid down that when a E.D.post falls vacant in the same office or any other office in the same station, if a working E.D.A wants to be appointed in that post, it is permissible to appoint him to the post without being nominated by the Employment Exchange.

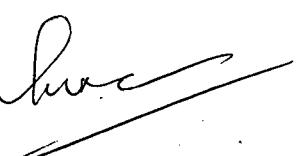
4. We have heard the arguments of the learned counsel on either side and have also carefully perused the pleadings and documents produced. Though the applicant had worked as a substitute EDBPM as nominated by the regular incumbent for different periods since 1981, it does not confer on her any right of regularisation on that post without being sponsored by the Employment Exchange and without undergoing the process of selection. The provisional engagement of the applicant as EDBPM was only from 24.3.1991 and was terminated on 27.5.1991 by the appointment of respondent-3 to that post(Annexure-A8). Even in the application the prayer of the applicant is that she should be considered for regular appointment in a post of EDBPM. When the post of EDBPM fell vacant, the department did not send a requisition to the Employment Exchange because another ED Agent, respondent-3 working as a Mail Carrier in the same office and another EDA of Karamcode had submitted applications for being appointed to that post. Considering the rival claims of the ED Agents of Velichikala and Karamcode on the basis of the eligibility criteria adopted by the department, the respondent-3 was found suitable *in the light of the instructions dated 12.9.88* to be appointed to the post of EDBPM, Velichikala, and therefore,

the respondent-1 appointed him to that post on regular basis and as a result, the applicant's services had to be terminated. As the applicant did not acquire any right for regularisation in the post of EDBPM, Velichikala without undergoing a process of selection and as the appointment of respondent-3 to that post is valid as per rules, we are of the view that no interference is required with the impugned order at Annexure-A8.

5. The learned counsel for the applicant argued that the action of respondent-1 in appointing respondent-3 as EDBPM, Velichikala during the pendency of this application when there was an interim order directing that the applicant should be retained in that post till a regular selection and appointment is made against the interim order, we do not find any force in that argument. There was no direction that no appointment should be made till the disposal of the application. The only direction was that till a regular appointment is made, the applicant should be retained on a provisional basis and we have already held that the appointment of respondent-3 is regular and proper.

6. In the conspectus of facts and circumstances, we find no merit in this application and therefore dismiss the same, without any order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


(NV KRISHNAN)
ADMVE. MEMBER

27-11-1991

trs