

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 578/2001

Thursday, this the 9th day of January, 2003.

CORAM :

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

Nisha C.G., D/o Shri N. Gangadharan Nair,
ED Packer, Chengamanadu S.O.,
North Paravur Sub Division,
residing at Konnanattu House,
Poikkattussery, Chengamanadu P.O.

... Applicant

(By Advocate Mr. O.V. Radhakrishnan)

Vs

1. Senior Superintendent of Post Offices,
Aluva Postal Division,
Aluva - 683101.
2. Director General of Posts,
New Delhi.
3. Union of India rep. by its
Secretary,
Ministry of Communication,
New Delhi.
4. E.K. Subramanian,
Extra Departmental Delivery Agent,
Yordhanapuram B.O.,
Aluva Division.

... Respondents

[By K. Kesavankutty, ACGSC(R 1-3)]

The application having been heard on 9.1.2003, the
Tribunal on the same day delivered the following :


ORDER

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

The applicant, working as Extra Departmental Packer,
Chengamanadu Sub Office, North Paravur Sub Division under Aluva
Division and residing in Chengamanadu applied for appointment by
transfer as ED BPM, Yordhanapuram in Aluva Division. She was
asked to appear for an interview. The 4th respondent working as

EDDA, Yordhanapuram was also one of the candidates. All the candidates who had sought appointment by transfer were considered and among them the applicant had the highest marks in the matriculation examination. However, the applicant came to know from reliable sources that the 4th respondent who scored only 287 marks out of 600, while the applicant scored 414 marks in the SSLC Examination, has been selected for appointment for the mere reason that he has been working in the same office as EDDA. The applicant has filed this application praying that the order if any issued appointing the 4th respondent as EDBPM, Yordhanapuram be set aside, it may be declared that the 4th respondent is not entitled to any preference for appointment by transfer to the post of EDBPM, Yordhanapuram and appropriate directions be given to the respondents to make selection for transfer to the post of EDBPM, Yordhanapuram strictly in terms of Annexure A5 giving preference to the ED Agents having the highest marks in the matriculation examination. It is alleged in the application that the applicant satisfied all the requisite conditions for appointment to the post of EDBPM, that she has the highest marks in the SSLC Examination, that she had undertaken to reside within the limits of the BPO after selection and that the action on the part of the official respondents to give preference to the 4th respondent is wholly unjustified.


2. Shri K. Kesavankutty, ACGSC appeared for the respondents 1 to 3. Although notice was issued to the 4th respondent, the 4th respondent has not appeared to contest the OA.



3. Respondents 1 to 3 have in the reply statement admitted that the applicant has the highest marks in the SSLC Examination among the candidates who had applied for transfer, but they contend that as the applicant is not residing in the jurisdiction of the Yordhanapuram BPO, she is not eligible to be appointed as EDBPM.


4. We have heard the counsel on either side and carefully gone through the pleadings and material placed on record.

5. It is admitted that the applicant has the highest marks in the SSLC Examination and that as per instructions person with higher marks is to be preferred for appointment. The applicant was not selected on the ground that she has not been residing in the area limits of the BPO in question which according to the respondents is a pre-condition. In terms of the Department of Post, Gramin Dak Sevaks(Conduct & Employment) Rules, 2001, a selected candidate should reside within the Village of the BPO before appointment. Therefore past residence in Yordhanapuram Village is not a condition precedent before selection. Residence in the Village is to be insisted upon only after selection and before appointment. The applicant has offered to reside within the Village Yordhanapuram. Therefore there was no justification for considering the applicant as ineligible. Only if the applicant with superior merit was found ineligible, the 4th respondent could be considered for appointment. Since the applicant has offered to reside within the Village, the 1st respondent should have selected the applicant and asked her to take up residence in the Village.



6. In result in the light of what is stated above, the application is allowed in part. The 1st respondent is directed to select the applicant by admittedly the more meritorious for appointment as EDBPM, Yordhanapuram and call upon her to take up residence in the Village where the BPO is situated giving her two weeks' time to arrange a residential building. If the applicant starts residing in the Village within two weeks, the order appointing the applicant as EDBPM, Yordhanapuram shall be issued, if the applicant is not found otherwise disqualified. The selection order shall be issued within 6 weeks from today. No order as to costs.

Dated the 9th January, 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the order No.EDP/CHD dated 4.2.2000 of the Sub Divisional Inspector (Postal), Paravur Sub Division.
2. A-2: True copy of the Memo No.B7/EO/63 dated 16.5.2001 of the 1st respondent.
3. A-3: True copy of the Memo No.87/80/63 dated 20.6.2001 of the 1st respondent.
4. A-4: True copy of the Notification No.17-366/91-ED&Trg. dated 12.3.93.
5. A-5: True copy of the above letter No.17-60/95-ED&Trg. dated 28.8.1996 of the D.G.Posts, New Delhi.
6. A-6: True copy of the letter No.43-27/85-Pen (EDC&Trg) dated 12.9.88 of the 3rd respondent.
7. A-7: True copy of the letter No.19-21/94 ED&Trg dated 11.8.94 Director General of Posts, New Delhi circulated by letter No.B1/8/Dlgs. dated 3.10.94 from the 1st respondent.
8. A-8: True copy of the D.G.letter No.19-51/96-ED&Trg dated 11.2.97 Director General of Posts, New Delhi.
9. A-9: True copy of the letter No.ST/120/Kollam dated 9.10.2002 of the Chief Postmaster General, Thiruvananthapuram.
10. A-10: True copy of the order dated 13.9.2002 in OA No.1357 of 2000 of this Hon'ble Tribunal.

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