

CENTRAL ADMINISTRATIVE TRIBUNAL

Ernakulam Bench

Dated the eighth day of November Nineteen Ninety

Present

Hon. Shri N.V. Krishnan, Administrative Member

and

Hon. Shri N. Dharmadan, Judicial Member

ORIGINAL APPLICATION:579/90

P.K. Rajan : the applicant

V.

The Superintendent of Post  
Offices, Badagara(South) Sub : the respondents  
Division, Badagara and 2 others

Shri M.R. Rajendran Nair & P.V. Asha, advocates  
appeared for the applicant

Shri T.P.M. Ibrahim Khan, ACGSC for respondents

This Original Application having come up for hearing  
today, the Hon. Member(A), Shri N.V. Krishnan made the  
the following

O R D E R

The applicant was initially appointed as  
Extra Departmental Delivery Agent (EDDA for short)  
by the regular incumbent as his substitute when he  
went on leave for a long period with effect from  
11-10-89. It is stated in <sup>the</sup> para 3 of the application  
that ultimately, the regular incumbent left the job,  
and that after 1-6-90, the applicant is continuing on  
that job provisionally though no order of appointment

..../

was issued to him. He continued so till this application was filed on 18-7-90, on which date an interim direction was given that status quo as on that date should be maintained.

2. As it was stated in the application, that proceedings were initiated for filling up the post on a regular basis and that an interview was to be held on 20-7-90 and that he was not called to attend it, <sup>he</sup> ~~he~~ gave a further direction that subject to his submission of an application, he should also be allowed to appear for the interview being held for regular selection.

3. The applicant prays for the following reliefs:

- "i) Declare that the applicant is entitled to be considered for regular appointment as EDDA, Koothali and direct the respondents to consider case of applicant in the selection for appointment as EDDA, Koothali.
- ii) Declare that the proposed termination of applicant's service is null and void as violative of the provisions contained in Chapter V-A of the I.D. Act."

4. In the reply filed by the respondents, the averments made in para 3 of the Original Application that the regular incumbent Shri Karunakaran has left the job, has not been denied. It is, however, stated

that the regular incumbent Shri Karunakaran was appointed as Postman in the Quilandi Sub division from 14-3-90. He had been on leave even afterwards keeping the <sup>applicant</sup> ~~official~~ as his substitute. The application has been pending since July 1990 and the respondents had had sufficient time to check up on that point and yet they have not chosen to deny that fact. In the circumstances, we presume that the averments made in the para 3 of <sup>the</sup> application that the regular incumbent has left the job is correct, for he must have joined as Postman at Quilandi. That being so, the continuance of the applicant in the job after 1-6-90 after the regular <sup>the</sup> incumbent has left the job, cannot be as <sup>a</sup> substitute <sup>by</sup> necessary implication, such continuance will have to be treated as provisional appointment.

5. We hold that the applicant was thus a provisional appointee from 1-6-90. We have held in a number of cases that the persons holding the post of EDDA on a provisional basis are entitled to be considered in the regular selection for that job, even if not sponsored by the Employment Exchange. In this view of the matter, this applicant was entitled, as a matter of right, to be considered in


the interview which took place earlier.

6. We are, therefore, of the view that this application can now be disposed of by issuing a direction to the respondents to select the regular candidate by declaring the results of the interview and appoint him in accordance with law. We do so.

7. In the circumstances, we have not considered the relief claimed in para 3(ii) of the Original Application.

8. We dispose of the Original Application with the above observation. In the circumstances, we make no order as to costs.

  
(N. Dharmadan)  
Judicial Member

  
(N.V. Krishnan)  
Administrative Member

8th November 1990

Index: ~~Yes~~/No

ganga.