

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.582/02

Thursday this the 2nd day of December 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K.HAJRA, ADMINISTRATIVE MEMBER

S.Sunil Kumar,
S/o.K.Sreenivasan,
Part-time employee,
Chirayinkil P.O.,
Residing at Asanvilakom,
Pandakasala, Chirayinkil.

Applicant

(By Advocate Mr.Vishnu S Chempazhanthiyil)

Versus

1. Shri. Mohanan Achari,
Sub Divisional Inspector of Post Offices,
Attingal Sub Division, Attingal.
2. Senior Superintendent of Post Offices,
North Division, Thiruvananthapuram.
3. Chief Postmaster General,
Kerala Postal Circle,
Thiruvananthapuram.
4. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi.
5. Smt.B.S.Anusha Raj,
EDMC, Mudapuram, Chirayinkil.

Respondents

(By Advocate Mr.TPM Ibrahim Khan,SCGSC [R2-4] &
Mr.M.Balagovindan [R5])

This application having been heard on 2nd December 2004
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 claims to have continuously worked as a
Part-time contingent employee in the office of the Chirayinkil
Post Office from 18.6.1984 submitted an application for selection
and appointment to the post of EDMC, Mudapuram claiming
preference according to the DG Posts letter dated 6.6.1988 which
directs that casual labourers Full-time or Part-time should be

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given preference in appointment to ED Posts if they had completed 240 days of service in a year. Finding that the preference allegedly due to the applicant was not given and the 5th respondent has been selected and appointed the applicant has filed this application seeking to set aside the appointment of 5th respondent as EDMC, Mudapuram and for a direction to the respondents to appoint the applicant as EDMC, Mudapuram in her place and also for a direction to the 3rd respondent to consider the representation of the applicant.

2. The official respondents 1-4 in their reply statement denied the allegation of the applicant that he had been working continuously as a Part-time Sweeper from 1984 while admitting that on stray occasions the applicant had been so engaged. They contend that the applicant is not entitled to any preference and the 5th respondent who was the most meritorious was rightly selected and appointed.

3. The applicant has filed a rejoinder reiterating his claim that he had been continuously working. With a view to get at the truth of the allegation this Bench had directed the respondents 1-4 by order in M.A.526/04 dated 9.8.2004 to produce for the perusal of the Bench the Sub Office Daily Accounts of Chirayinkil S.O. and Sub Office Cash Book showing monthly payment for the Part-time contingent employees for the period from 1990 onwards. These documents were produced and the counsel of the applicant was permitted to peruse these documents in order to see whether the claim of the applicant that he had been continuously working can be substantiated.

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4. We have heard the learned counsel on either side. Learned counsel on either side agreed that after thorough perusal of the documents produced in terms of the direction contained in M.A.526/04 they could find only one entry which related to payment to the applicant of wages for one month as contingent employee in the year 1993.

5. The question that arises for consideration is whether the applicant had become entitled to the preference in terms of the DG Posts letter dated 6.6.1988 in the matter of appointment to the post of EDMC. Learned counsel of the applicant admitted that apart from the assertion made by the applicant in the application and Annexure A-4 as also the entry relating to one month's payment in the daily wage there is no record to establish the applicant's claim for preference, but he argued that as a matter of fact the applicant had been continuously working from 1984 onwards and therefore he is entitled to the preference. Learned counsel for the respondents, on the other hand, argued that to establish that the applicant had worked for 240 days continuously in a year unless the applicant is able to produce any material he will not be entitled to claim the benefit and as a matter of fact the averment in the application that the applicant had been continuously working from 1984 is not true to fact. We find that regarding the disputed point there is only assertion and refutation. The applicant has not been able to bring on record any document to support his claim that he had been continuously working from 1984 onwards or for 240 days continuously in any year. If the claim be true to fact Daily Cash Account which was produced should have disclosed similar entries as the entry in 1993 or for

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the rest of the period. Therefore we find that the applicant has miserably failed to establish that he had acquired the eligibility for preference in terms of DG Posts letter.

6. In the result, in the light of what is stated above we do not find any reason to set aside the selection and appointment of the 5th respondent. The application is therefore dismissed leaving the parties to bear their costs.

(Dated the 2nd day of December 2004)


S.K. HAJRA
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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