

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 587/89.
~~TX&X&X&~~

100

DATE OF DECISION 19-10-1990

MD Radhamany Applicant (s)

M/s PK Muhammed &
Grashious Kuriakose Advocate for the Applicant (s)

Versus

The Director of Postal
Services, Calicut, Kerala & 3 others Respondent (s)

Mr TPM Ibrahimkhan Advocate for the Respondent (s) 1-3

Mr AK Basheer - Advocate for the respondent-4

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? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The applicant, an unsuccessful candidate for selection and appointment to the post of Extra Departmental Branch Post Master, Nedumpoil Post Office has filed this application praying that the order selecting and appointing the fourth respondent to the post of Branch Post Master, Nedumpoil may be quashed and the third respondent may be directed to select and appoint her in that post. The applicant, a resident within the limits of Nedumpoil Post Office had worked as substitute B.P.O. for about a period of 300 days from the year 1986 onwards. When the third respondent invited applications for appointment as Branch Post Master, Nedumpoil on a regular basis, the applicant also applied

She was also called along with the fourth respondent and others for an interview held on 7.6.1989. In the interview the fourth respondent was selected and she was appointed as E.D.B.P.M., Nedumpoil. The applicant has challenged the selection of the fourth respondent and her non-selection on the ground that the fourth respondent is not a resident within the limits of the Nedumpoil Post Office. In support of this case, she has produced a copy of a page of the voters list to show that the fourth respondent was enlisted as a voter in Ward No.8 of Mazhakkunnu Panchayath. The applicant therefore prays that the selection of the fourth respondent who does not satisfy the residence qualification required for appointment to the post of E.D.B.P.M. may be set aside and a direction may be given to the respondent No.3 to select and appoint her in that post.

2. The application is opposed by the respondents. The respondents 1 to 3 have in their reply statement stated that the fourth respondent is really a resident within the limit of Nedumpoil Post Office with her parents, that this fact was verified by the Sub Divisional Inspector before she was appointed and that as the fourth respondent satisfied all the qualification prescribed for the post and as she had obtained the highest marks in the SSLC Examination, her selection and appointment was perfectly legal and ~~and~~ therefore the application is devoid of any merit. The fourth respondent also has resisted the application. She has contended that she has been residing with her parents within the limits of the Nedumpoil Post Office and that she has never

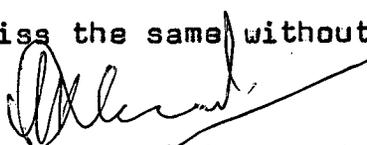
exercised franchise in Ward No.8 of Mazhakkunnu as contended by the applicant. She has also produced photostat copies of ration card and nativity certificate issued by the Tahsildar to substantiate her case.

3. We have heard the arguments of the learned counsel on either side and have also very carefully gone through the documents produced. The case of the applicant that the respondent No.4 is not a resident within the limits of Nudumpoil Sub Branch Post Office is sought to be substantiated by production of Annexure-C, a copy of a page in the voters list of the Peravoor Assembly Constituency of the year 1989 in which at serial No.720, the fourth respondent is shown to be a resident of House No.300 in Ward No.8. For one thing, Annexure-C is not the whole of the voters list and is not authenticated. Secondly, enlistment in the voters list of a place does not ipsofacto establish residence in that place and non residence in a different place. If a person happens to be the wife, daughter or daughter-in-law of the head of the family and if she happened to be present on the date on which the enumerators visited the house and gathered details of the members of the family, it is possible that, that person's name was also would be included in the list basing on which voters list would be prepared though that person may be permanently residing at a different place. Therefore, the inclusion of the name in the voters list cannot be treated as conclusive proof residence in that locality. Against this evidence the fourth respondent has produced a copy of the ration card Ext.R4(1)(a) and R4(1A)(b) which show that the fourth respondent's name was included in the ration card in the name of her father Karunakaran Nair with the address Sreelatha Bhavan, Kolayadu Panchayat. She has also produced Exbt.R4(2) Nativity Certificate dated 15.2.1990 which reads as follows:

"Certified that Sri K Vinodini a student....std. of the..... and son/daughter of Sri C Karunakaran Nair House Sreelatha Bhavan Amsam Vekkalam Desam Vekkalam Taluk Tellicherry District Cannanore has been a resident of the village of Kerala State continuously for a period of more than 5 years and is native of Kerala State."

Exbt.R4(3) is a copy of the front page of the SSLC Book of the fourth respondent in which also the native place of the fourth respondent is shown as Kolayad. In the reply statement filed by the fourth respondent, it has been stated that she has been residing in Nedumpoil in Kolayad Panchayat ever since her birth and that though her husband's house is in Vilakode of Mazhakkunnu Panchayat, she continued to reside with her parents. This contention of the fourth respondent is established by the Exbt.R4(2) Nativity Certificate issued by the Tehsildar, Tellicherry. In the reply statement filed by the respondents 1- to 3, it has been categorically averred that the Sub Divisional Inspector has conducted inquiry and has submitted a report stating that the fourth respondent was a resident within the area of Nudumpoil Post Office. The evidence adduced on the side of the respondents outweighs the solitary document namely, the copy of the voters list produced by the respondents. There is no reason to disbelieve the veracity of the entry in the ration card and the statement in the Nativity Certificate Exbt.R4(2) issued by the Tehsildar. There is also no reason to disbelieve that the Sub Divisional Inspector who conducted the inquiry regarding the place of residence of the fourth respondent has made a false report. Therefore we are convinced that there is absolutely no merit in the claim put forward by the applicant.

4. In the result, finding no merit in the application, we dismiss the same without any order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


(NV KRISHNAN)
ADMVE. MEMBER