

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 30.3.1990

P R E S E N T

HON'BLE MR.S.P.MUKERJI - VICE CHAIRMAN

AND

HON'BLE MR.A.V.HARIDASAN - JUDICIAL MEMBER

ORIGINAL APPLICATION NO.589/89

Mariamamma Peter - Applicant

Versus

1. Union of India rep.
by Secretary to Govt.,
Ministry of Comms.,
Secretariat, New Delhi.
2. The Sub Divisional
Inspector(Postal),
Mallappally.
3. The Superintendent.
of Post Offices,
Thiruvalla Division,
Thiruvalla. - Respondents

Mr.MR Rajendran Nair - Counsel for applicant


Mr.TPM Ibrahim Khan,ACGSC- Counsel for respondent

O R D E R

(Mr.A.V.Haridasan, Judicial Member)

The prayers in this application filed under
Section 19 of the Administrative Tribunals Act are
that the order of the Sub Divisional Inspector,
Mallappally dated 5.10.1989, at Annexure-I and the
orders contained in the letter No.B/3-Manthanam dated

...2/-



4.10.1989 referred to the order dated 5.10.1989 may be quashed, and that it may be declared that the services of the applicant are ^{not} ~~liable~~ to be terminated and the respondents may be directed to allow the applicant to continue as E.D.B.P.M with all consequential benefits. The facts of the case averred in the application in brief are as follows.

2. The applicant, who is a graduate and fully qualified for appointment as EDBPM was selected on a regular basis for appointment as EDBPM, Manthanam and was appointed as EDBPM on 12.7.1989 on her furnishing fidelity guarantee for Rs.2,000/- and ^{her} ~~providing~~ accommodation for housing the post office. Though the appointment was on a regular basis after following a selection process in accordance with the Recruitment Rules as is the practice in the department, it was stated ^{that} ~~she~~ was provisionally appointed. But to the great surprise of the applicant, on 5.10.1989 the second respondent issued the impugned order at Annexure-I informing that, as per orders contained in the letter of the Superintendent of Post Offices, Thiruvalla, No.B/3/Manthanam dated 4.10.1989, her provisional appointment is terminated with immediate effect

her
and directing ^{to} hand over charge of BPM to Shri C.N.
Gopalakrishnan Nair, Mail Overseas immediately. The
applicant has filed this application challenging the
above order and praying that the impugned order may
be quashed and ^{that} she may be allowed to continue in
service. It has been alleged that the impugned order
is unsustainable ^{and} that as no reason is stated in the
order as to why her services were being terminated,
she is made to guess that the action was as a result
of a frivolous complaint by an unsuccessful candidate
for the selection.

3. In the reply statement filed on behalf of the
respondents, though it has been admitted in paragraph
2 that, including the applicant 11 candidates were
sponsored for regular selection as EDBPM, Manthanam
by the Employment Exchange in response to the requisition
by the department, ^{that} only 6 of them satisfied the primary
conditions regarding residence, and that only 4 of them
submitted the applications duly filled, it has been
contended that as the office had to be started before
15.7.1989, pending finalisation of the selection, the
applicant who offered to provide accommodation was only

provisionally selected, and that her services were terminated in compliance with the instructions issued by the Post Master General, Kerala, that provisional appointment should not exceed a period of 89 days.

In paragraph 5 of the reply statement it has been further stated that the provisional appointment of the applicant was terminated as the Director of Postal Services, Cochin had directed the termination of the provisional appointment of the applicant on the basis of a complaint by one of the candidates who is an Ex-service man, in connection with the selection. In the rejoinder filed by the applicant it has been averred that, her appointment was on a regular basis on her providing accommodation and furnishing fidelity guarantee, and that she was never informed that the appointment was provisional for 89 days only.

4. We have heard the arguments of the learned counsel on either side and have also perused the documents including the file relating to the selection and provisional appointment of the applicant.

5. The order appointing the applicant was written by the second respondent, Sub Divisional Inspector, in the order Book of the newly started Branch Post Office

on 12.7.1989 as follows:

"Smt. Mariamma Peter Mavunkal Manthanam who has remitted premium for FG. Bond for Rs.2,000/- has been provisionally appointed as EDBPM.

The B.O. is authorised to do all kinds of postal business including Savings Bank, but will not do parcel booking, VP/Insured booking. The authorised balances of the B.O. are provisionally fixed as follows:

Cash Minimum : Rs.250/-
Maximum : Rs.500/-

Postage stamps
Maximum : Rs.750/-

Revenue Stamp
Maximum : Rs.20/-

MO forms : 2 bundles

line limit for
remittance of
cash is fixed
as Rs.10.000/-"

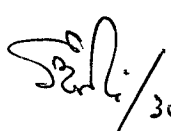
It is not discernible from this order that the appointment was for 89 days. From the file relating the selection and appointment, produced by the learned counsel for the respondents, it is not seen that the appointment was for a period of 89 days or provisionally and till a regular selection is made. Further from the letter of the Superintendent of Post Offices, Thiruvalla to the Director of Postal Services, Central Region, Cochin dated 14.9.1989 contained in this file shows that the applicant who had obtained the highest marks among the eligible candidates was selected provisionally for the post of EDBPM pending

receipt of formal clarification regarding age limit, and that as the revised instructions regarding age limit had been received from the C.O vide letter No.Rectt/11-1/Rlgs dated 7.8.1989, further action to regularise the provisional appointment initially made was under way. A perusal of these records shows that the applicant was the most eligible candidate having secured the highest marks in the S.S.L.C. Examination, and that she was selected for appointment to be regularised after getting clarification from the department regarding the age limit, and that as revised instructions stat^{ed}~~ing~~ that the upper age limit is 65 years, what remained was only regularisation of the selection already made. It is further clear from the records that the applicant had provided accommodation for housing the Branch Post Office, and that she had furnished fidelity guarantee for Rs.2,000/-. In these circumstances, it is not open ^{to}~~for~~ the respondents to terminate the services of the applicant merely because an unsuccessful candidate had made a complaint, without giving her a show notice.

cause. We, therefore, hold that the impugned order of termination of the applicant is illegal and unsustainable.

6. In the result, we allow the application and set aside the impugned order of termination at Annexure-I and direct the respondents to allow the applicant to continue in service with all consequential benefits. We do not make any order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

30.3.1990