

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

....

Friday, this the 26th day of November, 1993

O.A. No. 590/92

SHRI A.V. HARIDASAN, JUDICIAL MEMBER

SHRI P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Shri K.Sreekumar .. Applicant

By Advocate Shri O.V. Radhakrishnan

Vs.

1. Sub Divisional Inspector (Postal)  
Mannarghat.

2. Supdt. of Post Offices,  
Ottappalam.

3. Chief Postmaster General,  
Kerala Circle, Tvm.

4. Union of India, rep. by its  
Secretary, M/o Communications,  
New Delhi.

.. Respondents

By Advocate Shri Mathews J.Nedumpara

O R D E R

Mr. A.V.Haridasan, JM

The applicant, Shri K.Sreekumar, who has been working as a casual mazdoor under the Sub Divisional Inspector, Mannarghat from 27.9.89, coming to know that a new ED Branch Post Office was being opened at Kaithachira, made a representation to the Supdt. of Post Offices, Ottappalam Division on 8.3.92 requesting that he may be considered for appointment to a suitable ED post as he has been working as casual mazdoor since 1989 and he satisfies all the eligibility criteria for such appointment including Employment Exchange registration. Finding that steps were in progress to make selection by requisitioning the Employment Exchange <sup>to</sup> sponsor candidates without considering the candidature of the applicant, the applicant filed this OA praying for the following reliefs:

" 1) To direct the 1st respondent to consider the candidature of the applicant for the post of

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Extra Departmental Delivery Agent, Kaithachira B.O. and to appoint him to the said post giving preference over other fresh candidates in terms of Ext. A2 instructions issued by the Directorate of Posts;

- ii) to direct the respondents not to initiate selection process through Employment Exchange for appointment as Extra Departmental Delivery Agent, Kaithachira Branch Office and to fill up the post of EDDA from among casual labourers in terms of Ext. A2;
- iii) to direct the respondents 1 and 2 to confer 'temporary' status on completion of one year from the date of initial engagement according to Ext. A5 scheme of regularisation with all consequential benefits."

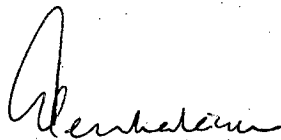
2. After the application was admitted, by an order in MP 538/93 this Bench ~~of the Tribunal~~ directed the 1st respondent to consider the candidature of the applicant for selection and appointment to the post of EDDA, Kaithachira Branch Office as and when any selection for the said post is held. It was made clear ~~xxxxxxxxxxxx~~ that the consideration of the applicant shall be provisional and subject to the outcome of the application. Accordingly, the applicant was considered and was appointed as EDDA, Kaithachira on a provisional basis w.e.f. 26.3.93. In the application it has been alleged that in accordance with the instructions in letter No.17-141/88-EDC& Trg. dated 8.8.88 communicated to PMG <sup>with</sup> letter No. Rectt/27-1/IV dated 14.7.88, the casual mazdoors including part time casual mazdoors having put <sup>in</sup> ~~one~~ year service is entitled to be considered for regular appointment to ED post in preference to outsiders and that the action of the respondents in not considering the applicant in the light of the above instructions is unsustainable and unjustified.

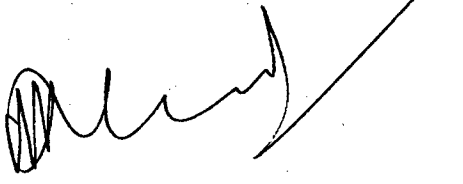
3. The respondents in the reply contend that the applicant being only a part time casual mazdoor and not having been sponsored by the Employment Exchange, he is not entitled to claim the benefit of the letter of the Department of Personnel referred to in the application and therefore he is not entitled to the reliefs sought for in this application.

4. A mere scrutiny of the Ann.A2 letter would make it clear that even part time when casual mazdoors having put in one year service, are entitled to the benefits. ~~under the letter xxxxxxxxxx~~ Therefore, there is no merit in the contention that the applicant being only a part time casual mazdoor is not entitled to be considered for appointment ~~as~~ to ED post. The contention that as the applicant has not been sponsored by the Employment Exchange he cannot claim any benefit under the Ann.A2 letter, also cannot stand because in Ann.A2 there is no stipulation that only a casual mazdoor who has been sponsored by the Employment Exchange will be entitled to the benefit. Further in M.M.Unnikrishnan Vs. SPOs reported in 1990(13) ATC 250 this Bench of the Tribunal had held that the non-sponsorship by the Employment Exchange and non registration before a particular cut off date cannot be considered as a disqualification for considering the candidature of an applicant provided he <sup>had</sup> ~~is~~ registered his name with the Employment Exchange and satisfied the other requirements prescribed for the post. In this case there is no dispute of the fact that the applicant had registered his name with the Employment Exchange and that he satisfied all the requirements prescribed for the post. It has also come out from the pleading that in the regular selection made in obedience to the order in the MP referred to above, the applicant was also considered <sup>that</sup> and ~~he~~ was selected and appointed on a provisional basis.

5. Finding no merit in the contention of the respondents <sup>that</sup> that the applicant is not entitled to be appointed in an ED post giving preference as required in the letter at Ann.A2 <sup>Finding</sup> and <sup>that</sup> the applicant has been adjudged by the selecting authority as <sup>the</sup> ~~an~~ suitable candidate in the selection process, we are of the view that the proper course ~~is~~ now open for us

is to direct the respondents to appoint the applicant in the post of EDDA, Kaithachira on regular basis with effect from the date on which he was appointed provisionally. The other prayers made in the application are not pressed. The application is disposed of with the above direction. No costs.

  
(P.V. Venkatakrishnan)  
Administrative Member

  
(A.V. Haridasan)  
Judicial Member