

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 591 of 1996.

Wednesday this the 14th day of August 1996.

CORAM:

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

P. Sivasankaran,
Parola House,
P.O. Vattekkara,
Kadampazhipuram,
Ottappalam Taluk,
Palghat District.

.. Applicant

(By Advocate Mrs. Prabha R. Menon)

Vs.

The Superintendent of Post Offices,
Ottappalam Division,
Ottappalam - 679 101.

.. Respondent

(By Advocate Shri K.S. Bahuleyan for Shri TPM Ibrahim Khan,
SCGSC)

The application having been heard on 14th August 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant who has been working as Extra Departmental Agent for long six years in the Vattekkara Post Office in Kadampazhipuram village, seeks a declaration that he is entitled to be appointed as Branch Post Master in the Vattekkara Post Office. Respondent disputes the claim of applicant on the ground that he is an Agent of the Life Insurance Corporation (LIC for short) and also on the ground that amongst the eligible hands he ranks fourth.

2. There are no statutory rules governing the matter in question, but there are administrative orders. One of those : Letter No. 43-27/85-Pen., (EDC & Trg.),

....2/-

dated the 12th September, 1988 reads:

" When an ED post falls vacant in the same recruiting unit and if one of the existing EDAs prefers to work against that post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange, provided he is suitable for the other post and fulfils all the required conditions."

(Emphasis supplied)

3. According to respondents, there are others who are better than applicant. They have no case that applicant is not suitable or that he does not fulfil the conditions. Comparison of merit is not called for because if an Extra Departmental Agent fulfils required conditions and is suitable, independent of relative merit, he is eligible. Hence, this contention raised by respondents has to be rejected.

4. Applicant relies on an other order, namely: D.G. Posts., letter No. 41/295/87-PE. II. dated the 27th August, 1987 to reinforce his claim. The material part of the order reads:

" In case no persons from the post-village who have applied had additional source of income, the vacancy is required to be re-advertised and then only regular appointment of non-resident of the post-village can be done."

(Emphasis supplied)

This clearly gives preference to a local resident and outsider can be considered only if there is no eligible local resident. Respondent has no case that there is any other eligible local hand. Applicant is a local resident(A2). However, Standing counsel submitted

that it will be against Article 16 to exclude those who are not local residents. He is perfectly right in his submission. But, this is not a case of excluding outsiders or denying consideration to outsiders. This is only a case where preference is given to a local resident. Indicating priorities and preferences, is a very common feature in service rules and that does not offend Article 16. Preference could be given to a local resident for valid administrative reasons.

5. The only other objection raised by respondent is that applicant is an Agent of the LIC. This objection will be valid if applicant continues as an LIC Agent, after his appointment. He does not have to give up the LIC agency in contemplation of making an application.

6. If applicant gives an undertaking that he will resign and give up his LIC agency in the event of his being appointed, his case will be considered for appointment as Branch Post Master in terms of the orders of the department, aforementioned.

7. With the aforesaid directions the application is allowed. Parties will suffer their costs.

Wednesday this the 14th day of August 1996.

Chettur Sankaran Nair
CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN