

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCHOriginal Application No. 61 of 2009

Friday, this the 1st day of January, 2010

CORAM:

Hon'ble Mr. George Paracken, Judicial Member**Hon'ble Mr. K. George Joseph, Administrative Member**

1. Sasidharan M.R., son of late M.A. Ramakrishnan, aged 52 years, Gramin Dak Sevak Mail Deliverer, Kottapuram, residing at Muringatheri House, P.O. Nelluvaya, Erumapetty, Thrissur District.
2. K.K. Kunjunny, Son of Kuttappa, aged 54 years, Gramin Dak Sevak Mail Deliverer, Kuriachira, residing at Kuruppathuparambil, Kurichikara P.O., Thrissur District.
3. C.K. Prabhakaran, son of Karappan, aged 49 years, Gramin Dak Sevak Mail Deliverer/Mail Carrier, Balangad, residing at Chakkandan house, Kundilyur P.O., Thrissur District.
4. C.P. Muraleedharan, son of Ponnan, aged 48 years, Gramin Dak Sevak Mail Carrier, Chittanjur, residing at Chattukulangara House, Chittanjur P.O., Thrissur District.
5. M.P. Jolly, son of Pavunni, aged 48 years, Gramin Dak Sevak Mail Carrier, Marathakara, residing at Marrokky house, Marathakara P.O., Thrissur District.
6. P.S. Baburaj, son of Late P.S. Sumughan, aged 44 years, Gramin Dak Sevak Mail Packer, Kurkancheri, residing at Pullickaparambil House, Kanimangalam P.O., Thrissur District.
7. K.S. Kumaran, son of Shankaran, aged 48 years, Gramin Dak Sevak Mail Deliverer, Elavally, residing at Kooliyath house, Elavally P.O., Thrissur District.
8. V.P. Appunni, son of Pally, aged 49 years, Gramin Dak Sevak Mail Deliverer, Chemmanthitta, residing at Vadakkenjhil house, Chemmanthitta P.O., Thrissur District.
9. K.R. Radhakrishnan, son of Ramankutty, aged 52 years, Gramin Dak Sevak Mail Carrier, Ayyappankavu, residing at Kallathuparambil, Valakkaram, Mulayam P.O., Thrissur District.
10. C.K. Dharmarajan, son of Krishnan, aged 49 years, Gramin Dak Sevak Mail Packer, Guruvayur Temple, residing at Chencheri House,

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Guruvayur P.O., Thrissur District.

11. T.D. Vikraman, son of Damodaran, aged 49 years, Gramin Dak Sevak Mail Carrier, Thangalur, residing at Thazhathu house, Mulagunnathukavu P.O., Thrissur District.
12. A. Jayasankar, son of Achuthan, aged 45 years, Gramin Dak Sevak Stamp Vendor, Punkunnu, residing at Athaparambil house, Parlikad P.O., Thrissur District.
13. T.C. Hariharan, son of Chandu, aged 49 years, Gramin Dak Sevak Mail Deliverer, Koottala, residing at Thoppil house, Koottala P.O., Thrissur District.
14. P.S. Ubaidulla, son of Syed Mohammed, aged 46 years, Gramin Dak Sevak Stamp Vendor, Pavarathiy, residing at Thachiliyath House, Pavaratti P.O., Thrissur District.
15. T. Anil Kumar, son of Viswanathan, aged 48 years, Gramin Dak Sevak Mail Packer, Guruvayur, residing at Thazhissery House, Guruvayur P.O., Thrissur District.
16. V.R. Balakrishnan, son of Ramakrishnan, aged 48 years, Gramin Dak Sevak Mail Packer, Kuthur, residing at Vettikattuvalappil, Attore, Kuthur P.O., Thrissur District. **Applicants**

(By Advocate – Mr. P.A. Kumaran & Ms. Rekha Vasudevan)

V e r s u s

1. Union of India, represented by the Secretary to Government of India, Ministry of Communication, New Delhi.
2. The Chief Post Master General, Kerala Circle, Thiruvananthapuram-33.
3. The Senior Superintendent of Post Offices, Thrissur Division, Thrissur. **Respondents**

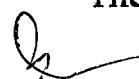
(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 01.01.2010, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Mr. George Paracken, Judicial Member -

The applicants are Gramin Dak Sevaks in Thrissur Division under



third respondent, namely, the Senior Superintendent of Post Offices, Thrissur Division, Thrissur. They are aggrieved by the inaction on the part of the respondents in considering them for promotion to Group-D post to which they are fully eligible.

2. The contention of the respondents in this case is that for filling up the Group-D posts under the 75% quota prescribed under Department of Posts (Group-D posts) Recruitment Rules, 2002 approval of the screening committee is required. Since the said approval has not been received the applicants cannot be promoted as Group-D.

3. The issue regarding promotion of a Gramin Dak Sevaks under the 75% quota prescribed under Department of Posts (Group-D posts) Recruitment Rules, 2002 has already been settled by this Tribunal in OA No. 312 of 2008 and other connected cases vide its order dated 15.12.2008. The Tribunal has categorically held that the approval of the screening committee was not necessary for promoting the Gramin Dak Sevaks in terms of the aforesaid recruitment rules. The operative part of the said order is as under:-

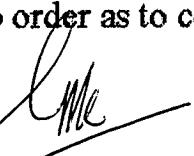
"62. In view of the above, all the O.As are allowed in the following terms. It is declared that there is absolutely no need to seek the clearance of the Screening Committee to fill up the vacant posts in various Divisions which are to be filled up from out of G.D.S. and Casual Labourers as per the provisions of the Recruitment Rules, 2002. Respondents are directed to take suitable action in this regard, so that all the posts, majority of which appear to be already manned by the G.D.S. themselves working as 'mazdoors' at extra cost, are duly filled. In a few cases (e.g. OA 118/2008), the claim of the applicants is that they should be considered against the vacancies which arose at that time when they were within fifty years of age. In such cases, if the applicants and similarly situated persons were within the age limit as on the date of availability of vacancies, notwithstanding the fact

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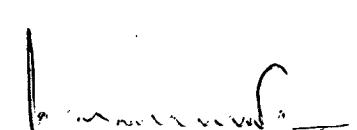
that they may by now be over aged, their cases should also, if otherwise found fit, be considered subject, of course, to their being sufficiently senior for absorption in Group D post. If on the basis of their seniority, their names could not be considered due to limited number of vacancies and seniors alone could be considered for appointment against available vacancies, the respective individuals who could not be considered be informed accordingly. Time calendared for compliance of this order is nine months from the date of communication of this order."

4. The aforesaid order of this Tribunal has been contested before the Hon'ble High Court of Kerala in Writ Petition No. 30674 of 2009 and other connected matters. We are told that the aforesaid Writ Petitions have been disposed of on 23.12.2009 with the direction to the respondents to comply with the orders of this Tribunal within two weeks from that date.

5. In view of the above position, we allow this OA. The respondents shall be bound by the aforesaid order of this Tribunal in OA 312 of 2008 and connected cases as well as the judgment of the Hon'ble High Court of Kerala. The respondents are therefore, directed to take immediate steps for considering the applicants for promotion to Group-D posts in Thrissur Division in accordance with their seniority and in accordance with the Annexure A-1 recruitment rules and grant them such promotions from the dates on which they are entitled to be promoted with all consequential benefits. The aforesaid direction shall be complied with, forthwith. There shall be no order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

"SA"


(GEORGE PARACKEN)
JUDICIAL MEMBER

OA/61/09

20.08.2010 KT(JM)&KGJ(AM) C-I

- (27) OA 628/2010
- (28) OA 654/2010
- (29) CP(C) 90/2009 in OA 314/2008
- (30) CP(C) 91/2009 in OA 421/2008
- (31) CP(C) 92/2009 in OA 312/2008
- (32) CP(C) 95/2009 in OA 352/2008
- (33) CP(C) 97/2009 in OA 406/2008
- (34) CP(C) 99/2009 in OA 412/2008
- (35) CP(C) 100/2009 in OA 221/2008
- (36) CP(C) 103/2009 in OA 541/2008
- (37) CP(C) 107/2009 in OA 372/2008
- (38) CP(C) 108/2009 in OA 485/2008
- (39) CP(C) 117/2009 in OA 424/2008
- (40) CP(C) 118/2009 in OA 598/2008
- (41) CP(C) 119/2009 in OA 263/2008
- (42) CP(C) 120/2009 in OA 583/2008
- (43) CP(C) 121/2009 in OA 399/2008
- (44) CP(C) 8/2010 in OA 455/2008
- (45) CP(C) 47/2009 in OA 316/2008
- (46) CP(C) 23/2010 in OA 152/2009
- (47) CP(C) 82/2010 in OA 408/2008
- (48) OA 500 of 2009
- (49) OA 527 of 2009
- (50) **MA 374/2010 in OA 61/2009**

Mr. Sunil Jacob Jose, SCGSC

Mr. P.A. Kumaran for Ms. Rekha Vasudevan

The learned counsel for the respondents is directed to file the details which we wanted as per order dated 19.7.2010 as we have seen that the present affidavit filed is not in accordance with the directions given in that order. The details have to be furnished in the form of a table in respect of the applicants who have filed the applications and the contempt petitions.

The aforesaid exercise shall be done on or before 15.9.2010.

Post on 22.9.2010 for further consideration.

KGJ(AM)
SA

W.M.

KT(JM)

Order issued

OA/61/09

22.09.2010 KT(JM)&KGJ(AM) C-I

- (21) OA 628/2010
- (22) OA 654/2010
- (23) CP(C) 90/2009 in OA 314/2008
- (24) CP(C) 91/2009 in OA 421/2008
- (25) CP(C) 92/2009 in OA 312/2008
- (26) CP(C) 95/2009 in OA 352/2008
- (27) CP(C) 97/2009 in OA 406/2008
- (28) CP(C) 99/2009 in OA 412/2008
- (29) CP(C) 100/2009 in OA 221/2008
- (30) CP(C) 103/2009 in OA 541/2008
- (31) CP(C) 107/2009 in OA 372/2008
- (32) CP(C) 108/2009 in OA 485/2008
- (33) CP(C) 117/2009 in OA 424/2008
- (34) CP(C) 118/2009 in OA 598/2008
- (35) CP(C) 119/2009 in OA 263/2008
- (36) CP(C) 120/2009 in OA 583/2008
- (37) CP(C) 121/2009 in OA 399/2008
- (38) CP(C) 8/2010 in OA 455/2008
- (39) CP(C) 47/2009 in OA 316/2008
- (40) CP(C) 23/2010 in OA 152/2009
- (41) CP(C) 78/2010 in OA 410/2008
- (42) CP(C) 82/2010 in OA 408/2008
- (43) OA 500 of 2009
- (44) OA 527 of 2009
- (45) MA 374/2010 in OA 61/2009

Mr. Sunil Jacob Jose, SCGSC

Mr. P.A. Kumaran for Ms. Rekha Vasudevan

The counsel for the applicants (respondents in OA) is directed to give a copy of the affidavit dated 13th September, 2010 to the counsel appearing for the respondents (applicants in the OA) and objection, if any shall also be filed on respect of the same on or before the next date i.e. 29.9.2010.

Post on 29.9.2010 for further consideration.

KGJ(AM)

KT(JM)

SA

29.09.2010 KT & KGJ C-I

(29)

SCGSC

Ms. Rekha Vasudevan

MA 374/10:

List on 20.10.2010 alongwith connected cases.

By order,

C.O. [Signature]
29.09.2010

VS

MA 374/10 in
O.A 61/09
CP(C)100/09 in
OA/22/08

27.10.2010 KT(JM)&KGJ(AM) C-I

(15) OA 628 of 2010

Mr. Vishnu S. Chempazhanthiyil
Mr. Sunil Jacob Jose, SCGSC

(16) OA 654 of 2010

Mr. Vishnu S. Chempazhanthiyil
None for the respondents

(17) OA 500 of 2009

Mr. Vishnu S. Chempazhanthiyil
Mr. Sunil Jacob Jose, SCGSC

(18) OA 527 of 2009

Mr. Vishnu S. Chempazhanthiyil
Mr. Sunil Jacob Jose, SCGSC

(19) MA 374/2010 in OA 61/2009

Mr. Sunil Jacob Jose, SCGSC
Mr. P.A. Kumaran for Ms. Rekha
Vasudevan

(20) CP(C) 90/2009 in OA 314/2008

Mr. O.V. Radhakrishnan, Sr.
Ms. Rekha Vasudevan
Mr. P.S. Biju, ACGSC

(21) CP(C) 91/2009 in OA 421/2008

Mr. O.V. Radhakrishnan, Sr.
Ms. Rekha Vasudevan
Mr. Sunil Jacob Jose, SCGSC

(22) CP(C) 92/2009 in OA 312/2008

Mr. O.V. Radhakrishnan, Sr.
Ms. Rekha Vasudevan
Mr. Sunil Jacob Jose, SCGSC

(23) CP(C) 95/2009 in OA 352/2008

Mr. P.A. Kumaran for Mr. M.R. Hariraj
Mr. Sunil Jacob Jose, SCGSC

(24) CP(C) 97/2009 in OA 406/2008

Mr. P.A. Kumaran
Mr. Sunil Jacob Jose, SCGSC

(Contd.)

CP(C) 100/09 in

OA 221/08

(25) CP(C) 99/2009 in OA 412/2008
Mr. P.A. Kumaran for Mr. M.R. Hariraj
Mr. Sunil Jacob Jose, SCGSC

(26) CP(C) 100/2009 in OA 221/2008
Mr. Vishnu S. Chempazhanthiyil
Mr. Sunil Jacob Jose, SCGSC

(27) CP(C) 103/2009 in OA 541/2008
Mr. O.V. Radhakrishnan, Sr.
Ms. Rekha Vasudevan
Mr. Sunil Jacob Jose, SCGSC

(28) CP(C) 107/2009 in OA 372/2008
Mr. Vishnu S. Chempazhanthiyil
Mr. Sunil Jacob Jose, SCGSC

(29) CP(C) 108/2009 in OA 485/2008
Mr. P.C. Sebastian
Mr. Sunil Jacob Jose, SCGSC

(30) CP(C) 117/2009 in OA 424/2008
Mr. O.V. Radhakrishnan, Sr.
Ms. Rekha Vasudevan
Mr. Sunil Jacob Jose, SCGSC

(31) CP(C) 118/2009 in OA 598/2008
None for the applicant
Mr. Sunil Jacob Jose, SCGSC

(32) CP(C) 119/2009 in OA 263/2008
Mr. Vishnu S. Chempazhanthiyil

(33) CP(C) 120/2009 in OA 583/2008
Mr. Vishnu S. Chempazhanthiyil

(34) CP(C) 121/2009 in OA 399/2008
None for the applicant
Mr. Sunil Jacob Jose, SCGSC

(35) CP(C) 8/2010 in OA 455/2008
Mr. Shyam Raj for Mr. T.C.
Govindaswamy
Mr. Sunil Jacob Jose, SCGSC

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OA/221/08

(36) CP(C) 47/2009 in OA 316/2008

Mr. Shafik M.A.

None for the respondents

(37) CP(C) 23/2010 in OA 152/2009

Mr. Shafik M.A.

Mr. Sunil Jacob Jose, SCGSC

(38) CP(C) 78/2010 in OA 410/2008

Mr. P.A. Kumaran for Mr. M.R. Hariraj

Mr. Sunil Jacob Jose, SCGSC

(39) CP(C) 82/2010 in OA 408/2008

Mr. P.A. Kumaran for Mr. M.R. Hariraj

Mr. Sunil Jacob Jose, SCGSC

(40) CP(C) 109/2010 in OA 560/2008

Mr. P.A. Kumaran for Mr. M.R. Hariraj

Heard the learned counsel for the parties.

Departmental representatives Mr. A.R. Reghunathan, Assistant Director of Postal Services (Legal Cell), O/o. CPMG, Trivandrum and Mr. Ajith Kurian, Assistant Superintendent (Legal Cell), O/o. CPMG, Trivandrum are also present in the Court and were heard.

As per the order dated 19.7.2010, we have suggested the method which the Department has to follow in order to comply with the different orders passed in different Original Applications by appointing the applicants in respective divisions. In pursuance to that order, affidavits have been filed stating the vacancy position already existed. Further it is seen from the affidavit that 286 and odd vacancies of Group-D have been abolished and some of the existed vacancies were not filled up due to non-clearance by the screening committee. Now after taking into account the abolition of posts and the question of granting permission or

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CP(C)100/09
OA/221/08

clearance from the screening committee, it is brought to our notice that there are only 48 vacancies up to 2008 and 97 vacancies existed for the year 2009. It means a total of 145 vacancies are still available to be filled up.

With regard to the first question of abolition of the posts, as per the finding entered by the Hon'ble High Court of Kerala in Writ Petition No. 28574 of 2009 and connected Writ Petitions, it is categorically held that there shall not be any question of abolition of posts to be filled up for the promotion quota as the abolition question comes only to the direct recruitment quota. Further the Hon'ble High Court has held that there is no question of any clearance by the screening committee to fill up the vacancies. It is also found by the Hon'ble High Court that there is no records to show that these posts were abolished on the basis of any order given by the competent authority and even if any abolition has been now ordered, it is only applicable to the direct recruitment quota.

With the above finding entered by the Hon'ble High Court of Kerala, the vacancy position existed from 2000 to 2009 are 431 vacancies including 286 vacancies alleged to have been abolished. If the Department wants to comply with the order passed by this Tribunal the Department shall take either to revive all the vacancies abolished without permission of law or without an order passed by the competent authority with regard to the promotion quota. Further it is also held that if they are not in a position to fill up the vacancies already existed they should adjust the vacancies now arisen during the year 2009 i.e. 97 vacancies.

With regard to these two option it is left to the Department to take a decision on the matter and to comply with the orders passed

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61/09
C.R.C) 100/09 in
OA/22/08

by this Tribunal by adjusting or by appointing all the applicants who have got judgments from this Tribunal based on their seniority position in the division and eligibility. The entire action shall be completed within a period of 30 days from the date of receipt of a copy of this order and the respondents shall report compliance on the next date.

Post all these matters for further consideration on 30.11.2010. It is made clear that as far as the adjustment of the vacancies of 2009 is concerned, inspite of the recommendation of the Sixth CPC, we have found that the recruitment rules in this respect is yet to be amended. Hence, there is no bar for adjusting the vacancies, as we have suggested earlier. Ordered accordingly.

A copy of this order be handed over to the counsel for the parties.


KGJ(AM)


KT(JM)

SA