

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
XXXXXX

606/89

199

DATE OF DECISION 26.4.1990

K Asokan

Applicant (s)

Mr. V.P. Mohankumar

Advocate for the Applicant (s)

Versus

The Supdt. of Post Offices, Respondent (s)
Kasargod Division & others

Mr. TPM Ibrahim Khan, ACGSC

Advocate for the Respondent (s) 1 to 3
Mr DV Radhakrishnan for respondent No.4

CORAM:

The Hon'ble Mr. S.P. Mukerji, - Vice Chairman

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

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

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant challenges the appointment of the 4th respondent as Extra Departmental Branch Postmaster, Thimiri and prays for a declaration that the 4th respondent is not qualified to be appointed to the post, and a direction to the respondents 1 to 3 to appoint him to the post of EDBPM, Thimiri. The material facts averred in the application can be briefly stated as follows.

2. While the applicant was temporarily working as Postman in the Thimiri Branch Post Office from 21.7.1989 onwards, His name alongwith 8 others were sponsored by

the Employment Exchange for appointment to the post of EDBPM, Thimiri. An interview was held. As the applicant being fully qualified and having experience as Postman in Thimiri Post Office was expecting selection and appointment, he came to know that discarding his superior qualification and experience as Postman, the respondents 1 to 3 have selected the 4th respondent for appointment to the post. Since the 4th respondent has no landed properties and adequate means of livelihood/prescribed in the Rules, and while the applicant is possessed/the adequate means of livelihood and landed properties, the respondents 1 to 3 should have selected him especially considering his previous experience as a Postman in the same Post Office. Hence, the applicant prays that the selection of the 4th respondent/quashed and the respondents 1 to 3 may be directed to appoint the applicant as EDBPM, Thimiri.

3. The application has been resisted by the respondents. The first respondent has filed a reply statement on behalf of the respondents 1 to 3. It has been contended that the 4th respondent who has adequate means of livelihood and who obtained the highest mark in the JTSLC Examination which is equivalent to Matriculation was selected being the most meritorious among the candidates who attended the interview, and that the applicant has no locus standie to challenge the selection. The claim of the applicant

that he was working provisionally as Postman in the Thimiri Post Office is disputed and it was averred only as a substitute that he was posted there for a few days.

4. We have heard the arguments of the learned counsel on either side and have also carefully gone through the documents produced.

5. Since the applicant was working only for a few days as a substitute Delivery Agent in the Extra Departmental Branch Post Office, Thimiri, he could not have ^{regular} any preferential claim for appointment to the post of EDBPM. The respondents 1 to 3 as well as the 4th respondent have contended that the 4th respondent has obtained the highest mark in the JTSLC Examination which is considered equivalent to Matriculation. This has not been challenged by the applicant. According to the guide lines for selection of Extra Departmental Agents, the candidate who has obtained highest mark in the SSLC Examination has the highest chances to be selected. In this case as the 4th respondent has obtained the highest marks in the Examination, his selection cannot be challenged unless it is shown that he is suffering from any disqualification. It is averred in the application that the 4th respondent does not ^{have} adequate means of livelihood. The respondents 1 to 3, in their reply statement have stated that the 4th respondent has produced an income certificate showing that he has got an independent annual income of

Rs.3600/-. The learned counsel for the applicant invited our attention to the Annexure-R(C), letter of the Post Master General, Trivandrum-695 033 letter No.Rectt/11-1/85-II dated 13.2.1989. In this letter it is seen stated like this:

"In our letter No.Rectt/11-1/85-II dated 12.8.1987 it was specifically mentioned that the minimum income from other sources fixed as Rs.500/- will continue to be in force and that no preference need be given to candidates having higher income."

Inviting attention to this reference, the learned counsel submitted that, the forth respondent doesnot have a monthly income of Rs.500/-, and that, therefore, he could not have been validly selected. It is not clear from the Annexure-R(c), whether Rs.500/- is meant to be annual income or monthly income. Further, the Post Master General is competent to modify the instructions regarding the recruitment to the ED Agent post issued by the DGP&T. Annexure-R(A) is the letter No.43-84/80-Pen dated 30.1.1981 of the DGP&T communicated vide Post Master General, Kerala Circle, Trivandrum-1 letter No.STA/1/28/R1g/III dated 4.2.1981. In this letter what is mentioned is that the person who takes over the agency (EDBPM) must be one who has adequate means of livelihood. It is nowhere stated that, in this letter that, a person who has the monthly income of Rs.500/- alone is eligible to take over the agency. So even if the PMG, Kerala has issued an instruction that, a candidate

to the post of EDBPM should have a monthly income of Rs.500/-, that being in variation to the instructions of the DGP&T on the subject, that condition cannot be upheld. Therefore, there is no merit in the argument of the learned counsel for the applicant that the 4th respondent, whose yearly income is only Rs.3600/-, is not eligible to be appointed as EDBPM. *Ans*

5. On a careful consideration of the facts and circumstances of the case, we are not convinced that there is any irregularity or illegality in the selection of the 4th respondent. Therefore, we find ~~no~~ reason to interfere in the selection and appointment of the 4th respondent.

6. In the result, finding that there is no illegality or irregularity in the selection of the 4th respondent as EDBPM, Thimiri, we find that the applicant has no legitimate grievance, and therefore, we dismiss the application without any order as to costs.

~~(A.V.HARIDASAN)~~ 26/4/96
JUDICIAL MEMBER

(S.P.MUKERJI)
VICE CHAIRMAN

26.4.1990