

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. Nos 613, 832 & 190
~~XXXXXX~~ 836 of 1990

DATE OF DECISION 10-1-1992

KJ Mary Applicant(s) in OA-613/90

TC Parameswaran - Applicant in OA-832/90
N Sreenath & 4 others - Applicants in OA-836/90

Mr Thomas John Advocate for the Applicant (x) in OA-613/90
Mr MR Rajendran Nair - Advocate for
Versus OA-832 & 836 of 1990

PMG, Cochin & 3 others Respondent(s) in OA-613/90
Union of India & 3 others - Respondents in OA-832 & 836/90

Mr AA Abul Hassan, ACGSC Advocate for the Respondent(s) in
OA-613 & 832 of 1990

CORAM: Mr VV Sidharthan, ACGSC - Advocate for the respondents
in OA-836/90

The Hon'ble Mr. SP Mukerji, Vice Chairman
&

The Hon'ble Mr. AV Haridasan, Judicial Member

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

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The common question involved in these three cases is whether the Speed Post Centre, Cochin is a separate Unit for the purposes of recruitment to Group 'D' cadre or is it a part of the RMS Division. Since this common question is involved in these 3 cases, they are being considered and disposed of by this common order.

2. OA-613/90 is taken as ^{the} / ^{ing} lead case. The factual matrix is as follows: The applicant KJ Mary ~~xxxxxxxxxxxx~~ was selected through Employment Exchange and appointed by the 4th respondent as a Mail Collector by order dated 2.5.1989 at Annexure-A1,

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Initially Speed Post Centre was manned by personnel of other units of the Postal Department. Group'D' post also were manned by employees of other units. The casual mazdoors like the applicant are engaged mainly for collection and delivery of speed post articles and for giving assistance to Mailmen. In fact they are performing duties of Postman and Mailmen. The Director General of Posts issued an order dated 23.5.1990 creating 2 Group'D' posts and 2 posts of Postmen in the Speed Post Centre, Cochin. Consequent on the creation of posts, ~~xxxxxxx~~ by order dated 31.5.1990, the regular Group'D' staff deputed to the Speed Post Centre were reverted back. The grievance of the applicant is that while the applicant is continuing as a Casual Mazdoor, the department is taking steps to fill up the Group'D' vacancies in the Speed Post Centre by making selection from among the Extra Departmental Agents(EDAs), Casual Labourers etc. of Ernakulam RMS Division without considering the applicant also for absorption into a Group'D' post. As the applicant is not included in the list of Casual Mazdoors maintained by the Ernakulam RMS Division, the applicant would not be considered for appointment to the post. Therefore the applicant has filed this application for a direction to the respondents to fill up the Group'D' post in the Speed Post Centre from among the Mazdoors employed at the Speed Post Centre and to declare that she is entitled to be considered to Group'D' post at Speed Post Centre.

3. The applicant in OA-832/90 a member of the Scheduled Caste was recruited through Employment Exchange on 20.9.1989

to work as Mail Delivery Agent on a daily remuneration of Rs.24/- for 5 hours work a day. He has filed this application apprehending that his services would be terminated consequent on the induction of 3 more Postmen of the Postal side of the department as per the order of the PMG dated 20.9.1990. According to him, as the Speed Post Centre is a separate and independent recruitment unit, the Group 'D' posts are liable to be filled up only by absorption of the Casual Mazdoor working there, without being filled up either by transfer of employees from other units or considering EDAs or casual employees of RMS Division. The applicant has filed this application to declare that the services of the applicant are not liable to be terminated by transferring Postman from the Postal side and that the applicant is entitled to be the benefit of Chapter V-A of the Industrial Disputes Act. He has also prayed that the respondents may be directed to regularise him in service in a Group 'D' post.

4. In OA-836/90 the applicants 1 to 5 commenced their services in the Speed Post Centre, Cochin w.e.f. 19.5.1987, 5.8.1987, 1.5.1989, 1.5.1987 and from 1986 respectively as Mazdoors under the Speed Post Centre, Cochin. The appointment was made by the Manager, Speed Post Centre. They are continuously in service without break. The grievance of the applicants is that the respondents are taking steps to induct 3 Postmen into the Speed Post Centre reducing the volume of work and blocking their chances of absorption in Group 'D' cadre on a regular basis. According to them, Speed Post Centre, Cochin

being an independent unit for recruitment, the respondents are not entitled to fill the vacancies in Group'D' either by transfer or by resorting to recruitment from other units of the Postal Department. The applicants pray that it may be declared that their services are not liable to ^{be} terminated by transferring Postmen from the Postal side and that the respondents may be directed to regularise them in Group'D' or as Postman with consequential benefits.

5. The respondents in all these applications have filed reply statements. They have contended that the Speed Post Centre is only a part of the Ernakulam RMS Division and not an independent recruitment unit and that recruitment to the cadre of Group'D' is being made by the Divisional Head giving preference to ¹⁾ non-text category Group'D'; 2) EDAs of the Division, 3) Casual Mazdoors of the Division, 4) Extra Departmental Agents of the neighbouring Division, 5) Casual Mazdoors of the neighbouring Division and 6) Candidates sponsored by the Employment Exchange. It has also been contended that as there are adequate number of EDAs in the last examination, casual labourers and category below them were not given admission. The respondents therefore contend that the applicants are not entitled to the reliefs claimed.

6. We have heard the learned counsel on either side and have also carefully perused the pleadings and the documents. The important question that has to be determined is whether the Speed Post Centre, Cochin is an independent unit or whether

it is only a part of the Ernakulam RMS Division. If it is an independent unit, then recruitment to the Group'D' posts and the posts of Postmen should be made from among the casual labourers and other ~~xxxx~~ categories working in that unit and no preference should be given to the non-test category of Group'D' or EDAs because in the Speed Post Centre, no such categories exist.

7. The applicant in OA-613/90 has produced a true copy of proceedings of the meeting of National Union of RMS & MMS Employees Mail Guard and Class IV Kerala Circle held with the PMG on 13.6.1988. The PMG, Additional PMG and Additional PMG(Staff) represented the official side and Shri AN Ayyappan, Circle Secretary represented the Unions. The extract of the minutes relevant for the purpose of this case reads as follows:

"Engagement of outsiders as collection agents in speed post centres"

Union stated that there were approved mazdoors remaining without arrangement in Cochin while outsiders were being engaged as Collection Agents for SPC. The Union wanted the work to be entrusted to mazdoors in the approved list.

The union was informed that Speed-Post did not form part of RMS. It was therefore not obligatory to engage approved mazdoors of RMS for the work.

The Union stated that mazdoors had been recruited without nomination from Employment Exchange. This will be inquired into."

This extract from the minutes of the meeting held between the PMG and the Union shows that the Speed Post Centre did not form part of RMS and that it was not obligatory to engage approved mazdoors of RMS to do their work in the Speed Post. Annexure-A4 is a copy of letter dated 20.12.1988 from the

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Senior Superintendent, RMS, Ernakulam Division to the Manager, SPC, Centre, Cochin. It reads as follows:

"SSRM has ordered the following on your letter cited above.

The role of a collection agent is quite different from that of ED Packer or Group'D'. Dynamism, fluency in language, hardwork, educational back-ground etc. are quite relevant in selecting a collection agent Manager Speed Post should evolve a suitable criteria and select the agents.

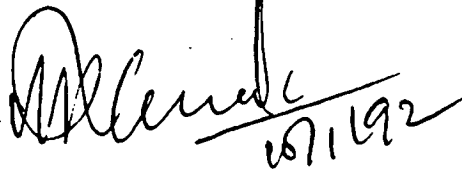
SPC is an independent unit and hence selection is the responsibility of Manager, Speed Post Centre."

It is evident from this letter that the ability^{and} educational qualification required for collection agents in Speed Post Centre are entirely different from that of the EDAs and other casual mazdoors of the Postal Department and that the Speed Post Centre is a separate and independent unit. In the face of these documents, it is idle for the Department to contend that Speed Post Centre, Cochin is a part of the RMS and that recruitment to the posts of Group'D' ~~and that the~~ Postmen in Speed Post Centre has to be made giving preference to the non-text category, EDAs, Casual Mazdoors etc. of the Ernakulam RMS Division. As the applicants in these 3 cases have been working on casual basis in the speed post centre, Cochin for a considerable length of time, they are entitled to be considered for appointment to the Group'D' post and the post of Postmen. As there are no non-text category or EDAs available in the Speed Post Centre, it is the casual mazdoors in the Speed Post Centre who should be first considered for absorption to the Group'D' post and the post of Postmen there. Therefore we reject the contention raised by the respondents in their reply statement.

8. In the result, all the 3 applications are allowed in part with the following orders/declaration/direction:

- a) The Group 'D' posts in Speed Post Centre, Cochin are to be filled by first considering the casual labourers working in that Centre since Speed Post Centre, Cochin is an independent recruitment unit for that cadre, and
- b) The services of the applicant shall not be terminated than otherwise/in accordance with law, after regularly filling the vacancies in Group 'D' considering the Speed Post Centre as an independent unit.

9. There is no order as to costs.


10.1.92

(AV HARIDASAN)
JUDICIAL MEMBER


10.1.92

(SP MUKERJI)
VICE CHAIRMAN

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