

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.614/98

Wednesday, this the 7th day of June, 2000.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.V.Rajan,
S/o Kuttiappa Nair,
Extra Departmental Sub Postmaster,
Pullookkara.

- Applicant

By Advocate Mr.K.S.Bahuleyan

VS

1. The Superintendent of Post Offices,
Tellicherry Division,
Tellicherry.

2. The Postmaster General,
Northern Region,
Calicut-673 011.

- Respondents

By Advocate Mr MHJ David.J, ACGSC

The application having been heard on 7.6.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant has filed this application impugning the order dated 7.4.98 by which the request made by him in his representation for regularising his services as Extra Departmental Sub Postmaster(EDSPM for short), Pullookkara was turned down on the ground that there is no provision for such regularisation and that when a vacancy became regular, fresh selection would be made calling after fresh nominees from

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Employment Exchange. The admitted facts of the case are as follows: when the office of EDSPM, Pullookkara became temporarily vacant as the incumbent of that post Shri K Ravindran was put off duty, the applicant who was sponsored by the Employment Exchange and was found to be the most meritorious among the candidates, was appointed provisionally by order dated 9.10.95 when ultimately Shri Ravindran was dismissed from service and he exhausted all the remedies, the applicant made a representation A-2 seeking that his provisional service may be regularised. It was in reply to the said representation that the impugned order was issued. The applicant states that in view of the specific instruction contained in the letter of the 2nd respondent dated 18.7.94 as the applicant has been appointed after a due process of selection, there is no need at all to make a fresh selection.

2. The respondents resist the claim of the applicant. It is contended that the applicant having been appointed only on a provisional basis has no right for regularisation and that when the vacancy has become regular, it is necessary to make a fresh selection. Reliance is placed by the respondents on a decision of this Bench of the Tribunal in O.A.1174/97.

3. We have perused the materials available on record and have heard the learned counsel for the parties. The respondents have no case that Annexure A-4 letter was not validly issued by the 2nd respondent. It is worthwhile to extract A-4 for easy reference and understanding:

"When an ED Agent is put off duty the need arises to engage a person immediately without waiting for Employment Exchange nominees, but it should be a temporary arrangement. Vacancy should be notified to Employment Exchange immediately specifying as a temporary vacancy. When list of candidates from Employment Exchange is received selection should be made from among those sponsored and the person already engaged should be discharged.

When Employment Exchange fails to give lists within 30 days local notification as prescribed in para 5 of DG P&T letter No.45-22/71-SPB/PEN dated 4.9.82 is to be made. The candidate selected from the nominees of Employment Exchange more from those responded to local notification shall be appointed provisionally in the proforma for this purpose i.e. Annexure-B prescribed in DG P&T letter No.43-4/77/Pen dated 18.5.79. Such candidate need not be discharged after 89 days. In case the original incumbent is dismissed or removed, no further selection need be made. The candidate already selected shall continue."

(emphasis is our's)

In this case, appointment of the applicant was made after a due process of selection as his name was nominated by the Employment Exchange. Since the applicant has been selected after a due process of selection in the face of the

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instructions contained in paragraph 2 of A-4, the stand of the respondents that when the vacancy has become regular, it is necessary to make a fresh selection and appointment is absolutely untenable. The same view has been taken by this Bench of the Tribunal in O.A.826/98. The facts of the case in O.A.1174/97 are totally different. We do not find any reason to deviate from that view.

4. In the result, in the light of what is stated above, the application is allowed, the impugned order is set aside and the respondents are directed to allow the applicant to continue in the post of EDSPM and to treat his appointment as regular. No costs.

Dated, the 7th of June, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

trs/14600

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-2: True copy of the representation dated 10.2.98 submitted by the applicant to the Chief PMG, Kerala Circle, Trivandrum-33.
2. A-4: True copy of the order No. Staff/23/R1gs/Pt dated 18.7.94 of the 2nd respondent.