

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM

DATE OF DECISION

12th MARCH, 1990

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman  
&  
Hon'ble Shri A.V. Haridasan, Judicial Member

ORIGINAL APPLICATION NO.615/89

K.S. Mayalekshmi .. Applicant

Vs.

1. Union of India represented by the Director General, Department of Posts, New Delhi.
2. The Post Master General, Trivandrum.
3. The Superintendent of Post Offices, Alleppey.
4. The Superintendent of Post Office, Mavelikara.
5. Smt. S. Sreelethadevi
6. Smt. C.D. Sreelatha Devi .. Respondents

Counsel for the applicant .. Shri R.Rajasekharan Pillai

Counsel for the respondents .. Shri T.P.M. Ibrahim Khan, ACGSC

M/s. S. Venkitasubramanya Ayyar-for R-5

Shri M.K.Damodaran for R-6.

ORIGINAL APPLICATION NO.673/89

C.D.Sreelatha Devi .. Applicant

Vs.

1. Union of India, represented by Secretary, Ministry of Communications, New Delhi.
2. The Chief Postmaster General, Kerala Circle, Trivandrum.
3. The Superintendent of Post Offices, Mavelikkara Division, Mavelikara

4. S. Sreelatha Devi .. Respondents

Counsel for the applicant .. M/s. M.K. Damodaran & C.T. Ravikumar

Counsel for the respondents. Shri T.P.M. Ibrahim Khan, ACGSC  
M/s. S.Venkitasubramanya Ayyar - for R-4

ORDER  
(Hon'ble Shri S.P. Mukerji, Vice Chairman)

Since common questions of facts, law and reliefs are involved in the two Original Applications filed under Section 19 of the Administrative Tribunal's Act, they were heard together and are being disposed of by a common order as follows.

2. In Original Application No.615/89 dated 15.10.1989, the applicant who has been working as a Reserve Trained Pool (RTP) candidate has challenged the impugned Order dated 4.1.89 promoting Respondent No.5 (Smt. S.Sreelathadevi) as Postal Assistant and in the Mavelikara Postal Division/has prayed that the 4th Respondent (Superintendent, Post Offices, Mavelikara) should be directed to appoint her in the place of the 5th Respondent with all consequential benefits.

3. The second application dated 14.11.89 (O.A 673/89) has been filed by Smt. C.D. Sreelatha Devi, another R.T.P candidate challenging the same Order dated 4.1.89 (Annexure 5) by which Smt. S. Sreelathadevi (Respondent 4) was promoted as Postal Assistant in Mavelikara Division. She has prayed that she should be declared to be qualified for appointment as Postal Assistant from 4.1.89 on which date Respondent 4 was so appointed, with all consequential benefits.

4. The brief material facts of these two cases are as follows. The applicant in the first application was included in the list of R.T.P of Alleppey Postal

Division in the second half of 1982, while the applicant in the second application was so included in the first half of 1982. It is admitted that the R.T.P panels are prepared on the basis of Postal Divisions and (RTP's) until they <sup>are</sup> appointed as Postal Assistants on a regular basis, they are given short-term appointments like leave vacancies, etc in the Postal Division of their recruitment. It is also admitted that in the list of R.T.P candidates seniority is based on the batch to which the candidate belongs and within the same batch interse seniority is determined on the basis of percentage of marks obtained. It is also admitted that the applicant in the second case being in the batch of the first half of 1982 is senior to the applicant in the first application who belongs to the second batch of 1982 of Alleppey Division. It is also admitted that Smt. S. Sreelethadevi who is Respondent 5 in the first application and Respondent 4 in the second application and against whose promotion as Postal Assistant with effect from 4.1.89, these applications had been filed was recruited as R.T.P of Mavelikara Division in the second half of 1982. It is also admitted that while the applicant in the first application was selected in the R.T.P panel of Alleppey Division in the second half of 1982 with 84.3% marks, Respondent 5 in the first application who is also Respondent 4 in the second application was selected as R.T.P candidate of Mavelikara in the second half of 1982 with 83% marks. In the normal course, there would have been no contest between the two applicants before us and the Respondent Smt. S. Sreelethadevi, as the latter being an R.T.P

candidate of Mavelikara Postal Division would not have come in the way of the applicants before us who were R.T.P candidates of Alleppey Division. However, the contest has arisen because of the fact that with effect from 1.6.88 there was some administrative reorganisation between Mavelikara and Alleppey Divisions as a result of which the Kayamkulam Postal Sub-Division was taken away from the jurisdiction of Alleppey Division and merged with the jurisdiction of Mavelikara Division. Along with such merger, certain posts were also transferred from Alleppey Division to Mavelikara Division. In the process of transfer of posts, the officials including the R.T.P candidates of Alleppey Division were called upon to give their option whether they would like to come over to Mavelikara Division or stay back in the Alleppey Division. Both the applicants opted for Mavelikara Division in time before the date of reorganisation, i.e. 1.6.1988. The grievance of the applicants is that even though they had exercised their option to come over to Mavelikara Division and even though even after 1.6.88 they have been working in the Kayamkulam Sub-Division which had merged with Mavelikara Division and their pay and allowances were paid for by the Superintendent of Post Offices, Mavelikara, ~~even after 1.6.88~~ they were not given regular appointment as Postal Assistant in the Mavelikara Division, but Respondent 5/Respondent 4, (hereafter Respondent 4/5) <sup>6/</sup> i.e. Smt. S. S. Sreelatha Devi who was junior to them as an R.T.P candidate of Mavelikara Division was appointed as Postal Assistant by the impugned Order dated 4.1.89, i.e. long after their merger with Mavelikara Division. The Respondents published a seniority list of R.T.P candidates as on 28.2.89 (Annexure E in O.A 615/89) with the applicant in the

second application as No.1 and the applicant in the but first application as No.2/conveniently excluding the name of Respondent 4/5 Smt. S. Sreelethadevi from that seniority list. The contention of the two applicants is that had the seniority list of R.T.P candidates of Mavelikara Division been issued as on 1.6.88, they would have been shown senior to Respondent 4/5 on the basis of their batch of recruitment and percentage of marks and they would have obtained regular appointment as Postal Assistant atleast from 4.1.89 when Respondent 4/5 was promoted. They have contented that the integrated seniority list of R.T.P after re-organisation was purposely delayed to be issued on (instead of soon after 1.6.88) 28.2.89 to give undue benefit of promotion to Respondent 4/5. They have also contented that in order to accommodate Respondent 4/5, an artificial vacancy was created in Mavelikara Division by transferring a regular Postal Assistant, Smt. Sobhakumari from Mavelikara Division to Alleppey Division, when a Postal Assistant of Alleppey Division Shri T.N.K. Pillai retired on 30.9.1988. The Postal Department in their reply have not controverted the facts of the case as have been brought out above. They have, however, indicated that options from the R.T.Ps are not generally obtained, but they were obtained from the applicants and other R.T.Ps to assess the number of willing candidates who are ready to go to Mavelikara Division to avoid hardships to unwilling candidates. They have, however, argued that the options given by the applicants were considered to be a request for transfer. They have argued that preparation of a combined seniority list as on 1.6.88 will be unfair to the R.T.Ps of Mavelikara Division and the allotment of the applicants to Mavelikara Division was notified only on 12.1.89 before which date Respondent 4/5 had been promoted on 4.1.89. They have, however, conceded

that the applicants were allowed to work at Kayamkulam Post Office with effect from 1.6.88 and paid hourly rates of allowances.

5. We have heard the arguments of the learned Counsels of both the applicants in this case and gone through the documents carefully. The learned Counsel for the Department conceded that the applicants before us had been engaged intermittantly as R.T.P candidates under the Kayamkulam Head Post Office even after 1.6.88 and their wages were paid by the Superintendent of Post Offices of Mavelikara after 1.6.88. The learned Counsel also conceded that after 1.6.88, R.T.P candidates of, say, Eranakulam Postal Division could not be posted at Kayamkulam Post Office which also means that after 1.6.88 R.T.P candidates of Alleppey Division also could not be posted at Kayamkulam Postal Sub-Division. Therefore, the fact that the applicants who had originally been recruited as R.T.P candidates in Alleppey Division were posted and paid for in Kayamkulam Sub-Division which had merged with Mavelikara Division and paid for by the Superintendent of Post Offices of Mavelikara and not of Alleppey goes to show that for all intents and purposes the two applicants before us who had opted for Mavelikara Division before 1.6.88 had been allotted to Mavelikara Division. If they have been allotted to Mavelikara Division only with effect from 12.1.89 in accordance with the Order dated 12.1.89 (Annexure R 3 B in O.A 673/89), they could not have been given intermittent postings at Kayamkulam Sub-Division after 1.6.88 when that Sub-Division had merged with Mavelikara Division.

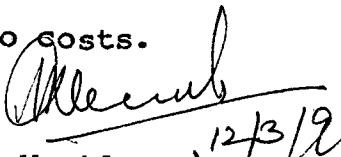
6. We are also not impressed by the fact that since seniority list had been prepared on 28.2.89,

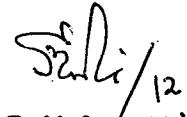
Respondent 4/5 who had already been appointed as Postal Assistant on 4.1.89 did not find a place in that seniority list and, therefore, the applicants can have no prior claim over Respondent 4/5. It has been held by the Supreme Court in OmPrakash Sharma and Ors. Vs. Union of India and Ors, AIR 1985 SC 1276 that when staff employed in different units are borne on a common seniority list and are brought back after reamalgamation, their position ante must be reflected in the seniority list. Though in the instant case before us, there was no common seniority list between Mavelikara R.T.Ps and Alleppey R.T.Ps, before reorganisation, the above ruling shows that amalgamation of common seniority list from the date of amalgamation would be called for and in that common seniority list as on 1.6.88, the two applicants before us would be senior to Respondent 4/5 because Respondent 4/5 was recruited in the second half of 1982 with 83% marks while the first applicant who was recruited in the second half of 1982 obtained 84.3% marks and the second applicant was admittedly recruited in the first half of 1982. The applicants, therefore, should have prior claim to the vacancies of Postal Assistants which arose in Mavelikara Division

after 1.6.88. We cannot accept their allocation to Mavelikara Division as on their request. It was as a sequel to reorganisation. Interestingly enough, even though the vacancy to which Respondent 4/5 was appointed as Postal Assistant on 4.1.89 was available because of a vacancy in the Alleppey Division where Shri Pillai retired on 30.9.88 and a regular Postal Assistant from Mavelikara Division was transferred to Alleppey Division to create a vacancy in Mavelikara Division for Respondent 4/5. Taken in that light also, the applicants who originally were recruited in the

Alleppey Division have a superior equitable right on that vacancy which arose prior to their formal allocation to Mavelikara Division.

8. In the conspectus of facts and circumstances we allow both the applications set aside the impugned Order dated 4.1.89 promoting Smt. S. Sreelethadevi as Postal Assistant and direct that the applicant in the second application Smt. C.D. Sreelatha Devi who belongs to the first batch of 1982 should be appointed to the first vacancy of Postal Assistant which arose in Mavelikara Division after 1.6.88 and the applicant in the first application Smt. K.S. Mayalekshmi be appointed as Postal Assistant to the second vacancy of Postal Assistant which fell in Mavelikara Division after 1.6.88 retrospectively from the date of occurrence of these vacancies with all consequential benefits. There will be no order as to costs.

  
(A.V. Haridasan) 12/3/90  
Member (Judicial)

  
S.P. Mukerji 12.3.90  
(S.P. Mukerji)  
Vice Chairman

NRM