

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

**ORIGINAL APPLICATION NO. 621/2013**

Thursday this the 4th day of June, 2015

CORAM

*Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member  
Hon'ble Mr. R.Ramanujam, Administrative Member*

Solomon P. Mathew S/o Mathai  
aged 43 years, Postman, TKMC PO  
Karikode, Kollam, residing permanently  
at Poothampara House, Thekkepuram, Ranni PO  
Pathanamthitta-689672.

...Applicant

(By Advocate Mr. M.R.Hariraj)

Versus

- 1 Union of India represented by the  
Secretary to Government,  
Department of Posts, Government of India,  
New Delhi-110 001.
- 2 The Chief Postmaster General,  
Kerala Circle, Trivandrum-695001.
3. The Superintendent of Post Offices,  
Pathanamthitta Postal Division,  
Pathanamthitta-689645.
- 4 Rejikumar V.K. Postman, Kulanada  
Pathanamthitta-689503.

...Respondents

(By Advocate Mr. Thomas Mathew Nellimootil (Sr.PCGC for R 1 to 3).  
Advocate Mr. Sajith Kumar for R.4)

This application having been finally heard on 2.6.2015, the Tribunal

on 4.6.2015 delivered the following:

**ORDER**

*Per: Justice N.K.Balakrishnan, Judicial Member*

This application is filed for a declaration that the applicant is entitled to be considered for appointment to the post of Postman under the third respondent in preference to any one having lesser marks than him in the Limited Departmental Competitive Examination (LDCE for short) conducted as per Annexure.A.1. Further the applicant seeks a direction to the respondents to consider him for appointment to the post of Postman under the third respondent in preference to any one having lesser marks and also for consequential benefits.

2. The case of the applicant can be briefly stated thus.
3. The applicant was working as a Gramin Dak Sevak (GDS for short) under the third respondent. The Limited Departmental Competitive Examination for vacancies in the post of Postman for the year 2011 was notified as per Memo dated 9.1.2013. The applicant appeared for the examination and was qualified for the post in Pathanamthitta

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Division. Due to lack of vacancies in that Division he was not appointed as Postman. Based on his performance he was eligible to be considered for appointment to the post of Postman in neighboring divisions as surplus candidate. OA 56/2013 was filed by one of the candidates from Kollam Division and based on the interim orders of this Tribunal the allotment of the applicant to Kollam was held up. In that case the applicant got himself impleaded and this Tribunal passed interim orders enabling the applicant's allotment as surplus candidate. The respondents notified the vacancies for 2012 in the cadre of Postman as per notification dated 12.4.2013 (vide Annexure. A.1). The last date of receipt of application was 3.5.2013. The applicant applied for the examination and as permitted, he appeared for the examination. On 17.5.2013 the applicant was selected to be appointed as Postman and was allotted to Kollam as surplus candidate (Vide Annexure.A2). The examination as per Annexure A1 was conducted on 19.5.2013. The applicant undertook the training and is now working as a Postman in the Kollam Division. The results of the examination conducted as per Annexure.A.1 was announced

but the applicant's name was excluded based on his subsequent appointment to the cadre of Postman based on the prior examination. The 4<sup>th</sup> respondent who belongs to OBC and having only 59 marks was appointed as Postman based on Annexure.A.1 whereas the applicant who is also an OBC having secured 62 marks was not considered. It was only because of the fact that he was subsequently appointed as postman in Kollam Division, he was not considered and was totally excluded. The applicant had a better option by getting appointment under Annexure.A.1 in his own Division. That opportunity ought not have been denied to the applicant. Hence the applicant seeks for a declaration as mentioned earlier.

4. Respondents 1 to 3 filed reply statement resisting the claim made by the applicant. The applicant was working as Gramin Dak Sevak in Pathanamthitta Division. Options were called for among the nine surplus qualified candidates for getting posting in the neighboring divisions as they were eligible to be considered for the neighboring divisions as per the amendment of the Department of Posts (Postman and Mail Guard) Recruitment Rules 2010 vide Annexure.R.3.



The applicant submitted his willingness for getting appointment in Tiruvalla or Kollam Division as evidenced by Annexure.R.4. The departmental screening committee for allotment of the surplus candidates to the neighboring divisions was held on 6.2.2013 and the applicant was allotted to Kollam Division as evidenced by Annexure.R.5. There was delay in posting the applicant to Kollam Division because of the pendency of OA 56/2013 in which amendment to the Recruitment Rules was challenged. The applicant and others were provisionally selected for appointment in Kollam Division. The next notification for filling up of vacancies for 2012 was issued vide Annexure.R.1 and the vacancy position was 4 in DR quota with communal break up 1 for OBC (Other Backward classes) and 3 for UR (unreserved). The examination was held on 19.5.2013. The applicant appeared in the examination under OBC category. The Departmental Screening Committee for declaration of the result was convened on 22.5.2013 and there were 28 qualified candidates from Pathanamthitta Division. As per the vacancy position the first three candidates were selected under UR

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category. Though the applicant was the first meritorious candidate under OBC category since he had accepted the appointment as Postman Kollam Division and was undergoing training there as Postman he was not considered and thus the next meritorious candidate under the OBC, namely, the 4<sup>th</sup> respondent was selected for appointment to the post of Postman in Pathanamthitta Division. The applicant was relieved from the post of GDS in Pathanamthitta Division and had joined as Postman trainee in Kollam division on 25.5.2013 and assumed the charge of postman after completion of training. He was absorbed as Postman in Kollam Division for 2011 batch and as such the applicant's claim was settled as per the result announced for 2011 LDCE to the cadre of Postman. The applicant had accepted the conditions for appointment as a surplus qualified candidate vide Annexure.R.4.

5. The 4<sup>th</sup> respondent has filed reply statement contending as follows. The applicant was selected against 2011 vacancy as a Postman at Kollam Division based on the option submitted by him. As such he is ceased to be a GDS. He was already selected as Postman and hence he



was not entitled again to compete in the LDCE for the post of Postman under GDS quota. His participation in the examination was in violation of Recruitment Rules. Since the applicant opted to be appointed as a Postman under surplus candidate in the neighboring postal division and since he had already given the option statement, he is not entitled to be posted as Postman in the Pathanamthitta Division. Option exercised by the applicant is final and he has no claim to go back to his parent cadre/parent division. Hence the 4<sup>th</sup> respondent contends that the applicant is not entitled to the reliefs claimed in this OA.

6. In the rejoinder filed by the applicant it is contended that his appointment was as a surplus candidate and it was purely on provisional basis and subject to the outcome of OA 382/2013 which was then pending. That OA was subsequently dismissed as withdrawn. Since the applicant was the first meritorious candidate under OBC category to be appointed in Pathanamthitta Division, the rejection of the claim made by the applicant is unsustainable.

7. The point for consideration is whether the applicant is entitled to be considered for appointment to the post of

Postman in Pathanamthitta Division in preference to the 4<sup>th</sup> respondent?.

8. We have perused the annexures/documents produced by the parties and heard the learned counsel appearing for all the parties.

9. It is not in dispute that the applicant and 4<sup>th</sup> respondent appeared for the Limited Departmental Examination for the post of Postman in the year 2011. That was for Pathanamthitta Division. As there was lack of vacancies the applicant opted for selection as surplus candidate to the neighboring division. Admittedly the applicant was posted as Postman in Kollam Division. It is not in dispute that he had undergone the training after he was so posted as Postman in Kollam Division. After training he assumed charge in Kollam division on 25.5.2013.

10. The learned counsel for the applicant has vehemently argued that for the 2012 vacancy which arose in Pathanamthitta Division applications were called for on 12.4.2013, the last date of receipt of the application was 3.5.2013. It is pointed out that the applicant should have been Gramin Dak Sevak who should have worked for at

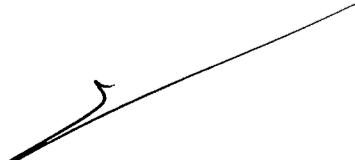
least 5 years in that capacity as on 1.1.2012. It is also mentioned that the age limit prescribed was as on 1.1.2012. Hence according to the applicant the eligibility criteria was taken as the one which should have been there on 1.1.2012 and as such the fact that the applicant had undergone the training for appointment as Postman in Kollam Division and the further fact that he joined as Postman in Kollam Division on 25.5.13 will not in any way preclude the applicant from getting appointment in the 2012 vacancy pursuant to the examination held on 19.5.2013. It is not disputed that in that examination, under OBC category, the applicant stood meritorious having obtained the first rank.

11. Annexure.A.2 dated 17.5.2013 shows that the applicant was declared successful in the Limited Departmental Competitive Examination to the cadre of Postman for the vacancy of 2011 held on 6.1.2013 and allotted as surplus candidate in Kollam Division. He was directed to undergo practical training at Kollam for 10 days from 21.5.2013 to 30.5.2013. Annexure.A3 is the order given to applicant for that purpose. It is not disputed that in the examination conducted for 2012 vacancy for



Pathanamthitta Division, the applicant secured 62 marks whereas the 4<sup>th</sup> respondent secured 59 marks only, and that both belong to OBC. If there was no impediment, the applicant should have been appointed as Postman in the OBC category for the 2012 vacancy. It is vehemently argued by the learned counsel for the respondents that the applicant voluntarily opted for being selected as surplus candidate in the neighboring division and accordingly, for the 2011 vacancy, the applicant was selected and appointed as Postman in the Kollam Division. The applicant voluntarily accepted the same as can be seen from the documents produced by the respondents.

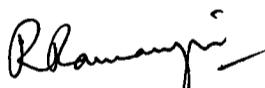
12. The respondents relied upon the Annexure. R.4 which was an undertaking given by the applicant for getting appointment in the neighboring division. The applicant opted Tiruvalla Division as first choice and Kollam Division as the second choice. As per Annexure.R.4 the applicant has filed the declaration stating "*I am aware of the fact that the Posts of postman/Mail Guard are of divisional cadre ad if I am selected as a surplus candidate from "neighboring division/units", will be placed below all the selected*

A handwritten signature in black ink, appearing to be a stylized 'S' or a similar mark, is written over a diagonal line.

*candidates from the home division irrespective of the marks obtained by me. In Annexure.R.4 there is a further declaration made by the applicant "option exercised by me is final and I will not decline the offer of appointment and I will have no claim to go back to my parent cadre/parent division." It was also stated by the applicant "I am aware of the fact that my absorption in any of the neighboring division/unit as a surplus candidate from other division will be based on inter-se merit among the surplus candidates and options submitted by them and the category to which they belong. I will not have any claim for change of allotment even if a vacancy subsequently remains unfilled in the division/unit in which I have given a higher preference in my options."*

13. In the light of the categoric undertaking given by the applicant, now it is idle for him to contend that in spite of the voluntary relinquishment made by him he should be again considered for the 2012 vacancy for Pathanamthitta Division. It is also important to note that after accepting the conditions he unconditionally and voluntarily accepted the post of Postman in Kollam Division. He also underwent the

training in Kollam Division. It is also pointed out by the learned counsel for the 4<sup>th</sup> respondent, that 4<sup>th</sup> respondent has now crossed 50 years and so he will be simply thrown out if the case of the applicant is accepted. It is not a case where the applicant was unaware of the conditions when he opted and voluntarily relinquished for being selected as surplus candidate for 2011 vacancy which was available in Kollam Division. He cannot turn around and contend that he should be considered for 2012 vacancy. We find no merit in the contention raised by the applicant. This OA is devoid of any merit. It is accordingly dismissed. No costs.

  
**(R.Ramanujam)**  
**Administrative Member**

  
**(N.K.Balakrishnan)**  
**Judicial Member**