

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 65 of 2003

Tuesday, this the 11th day of March, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Raju George K.X,
S/o Xavier, 12/928, Kattithara (H),
Palluruthy, Kochi-6
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682 016
2. M.K. Kesavan Elayath,
S/o M.D. Kesavan Elayath, Kunnakkatt Illam,
Vadakara PO, Thalayolaparambu, Kottayam-686 605
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682 016
3. B. Presenna Kumari,
W/o V.K. Viswanathan, Bhagyakrishna, 33/2244A,
Vennala PO, Kochi-28
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682 016
4. K.A. Chinnamma,
W/o V.G. Antony, Valeppilly House,
Ponekkara, Elamakkara PO, Manimala Road End,
Kochi - 682 026
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682. 016
5. T.D. Sudha,
W/o P.V. Shaji, Aswathy Bhavan, VMC No.20,
Polassery, Vaikom PO, Kottayam - 686 141,
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682 016
6. N.G. Kanakam,
W/o P.K. Vijaya Kumar, Vijaya Vihar,
Eroor West PO, Tripunithura, Ernakulam,
working as Sorting Assistant, HRO,
RMS 'EK' Division, Cochin-682 016 Applicants

[By Advocate Mr. K.G. Sarath Kumar]

Versus

1. Union of India represented by its
Secretary, Department of Posts,
Government of India, New Delhi.

2. Chief Post Master General,
Kerala Circle,
Trivandrum - 695 033
3. Senior Superintendent of Railway Mail
Service (RMS), EK Division,
Cochin - 682 011

.... Respondents

[By Advocate Mr. S.K. Balachandran, ACGSC]

The application having been heard on 11-3-2003, the Tribunal on the same day delivered the following:

O R D E R

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

Applicants, who were placed in the Reserved Trained Pool (RTP for short) during the year 1982 and 1983 on the basis of the scheme for recruitment of RTP Postal Assistants, were imparted training and their services were utilized as RTP Postal Assistants on hourly wage basis. However, all of them were regularly absorbed against the posts of Postal Assistant during the year 1990. Applicants' grievance is that their seniority has been reckoned only with effect from the date of their regular appointment. Claiming that they are entitled to have their services as RTP counted for the purpose of seniority, they made representation. The representation was rejected by the impugned order dated 8-11-2002 (Annexure A5) by which they were told that as the Hon'ble Supreme Court has held in Civil Appeal Nos. 80-123 of 1996 that the service rendered prior to the regular appointment in the cadre cannot be considered as service in the eligible cadre, they are not entitled to the seniority as claimed by them. Aggrieved by that, the applicants have filed this application. They contend that the intake of RTPs have been reduced to 50% during the year 1982 and that recruitments from open market were not known to the applicants and this has resulted in their belated

absorption on a regular basis. The applicants, therefore, plead that the impugned order may be set aside declaring that the applicants are entitled to get the seniority from the date of their initial appointment as RTP and to regularize their services with effect from that date with all consequential benefits thereto.

2. We have gone through the application and annexures submitted thereto and have heard Shri K.G.Sarath Kumar, learned counsel of the applicants, and Shri S.K.Balachandran, ACGSC appearing for the respondents. Shri Sarath Kumar, learned counsel of the applicants, invited our attention to a decision of this Bench of the Tribunal in OA No.1410/95 and contended that the applicants being similarly situated, they are also entitled to the benefits. We find in the order in OA No.1410/95 no declaration of law that service rendered as RTPs prior to regular absorption and appointment in the cadre would count for seniority. On the other hand, we find that the Apex Court has in Civil Appeal Nos. 80-123 of 1996 held that the service rendered prior to the regular appointment in a cadre cannot be considered as service in the eligible cadre. Applicants' services as RTPs were not against sanctioned posts and RTPs were regularized after creating supernumerary posts. The Apex Court has held that service rendered prior to regular absorption and appointment in the cadre cannot be considered as regular service in the eligible cadre. Since regular service in the eligible cadre alone can be counted for seniority and appointments can be made only against posts, we do not find, even *prima facie*, any merit in this application which would justify admission of this application for further deliberations.

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3. In the light of what is stated above, the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Tuesday, this the 11th day of March, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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