

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED THE 30TH DAY OF NOVEMBER ONE THOUSAND NINE HUNDRED
AND EIGHTY NINE

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 72/89

P. P. Koshy

Applicant

Vs.

1. Sub Divisional Inspector
Chengannur Sub Division,
Chengannur
2. Postmaster General,
Kerala Circle, Trivandrum
3. Union of India represented by its
Secretary, Ministry of Communications
New Delhi

4. K. K. Bharathan, Kallaparambil,
Ala P.O., Chengannur

Respondents

M/s. O. V. Radhakrishnan,
K. Radhamani Amma &
Raju K. Mathew

Counsel for the
applicant

Mr. K. Karthikeya Panicker, ACGSC

Counsel for
R-1 to 3

Mrs. Daya K. Paniker

Counsel for
R-4

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant started working as a substitute
Extra Departmental Delivery Agent for a short spells of
periods from 13.11.1986, as a nominee of his father who
was the regular EDDA, Ala E.D. Sub Post Office. His

father died of cancer on 11.1.87. As per Annexure-I dated 23.1.1987, he was offered a provisional appointment. While working in that capacity he sought compassionate appointment. But he was informed as per Annexure-3 by the second respondent, that his request for compassionate appointment cannot be considered in relaxation of normal recruitment rules. He again filed Annexure-4 representation which was answered by Annexure-5 stating that it has been considered by the Postmaster General and the request had been rejected. Nevertheless, he was continuing in the post and he got information through the Kerala Kammudi Daily that applications had been invited for regular appointment to the post of the ^h EDDA, Ala through Employment Exchange. Annexure-6 is the notification. He applied for the post through the Employment Exchange and also received intimation for interview but the fourth respondent has been selected by the first respondent following the guidelines of recruitment as contained in Annexure-9. Annexure-8 is the letter dated 23.1.1989 appointing the fourth respondent as EDDA, Ala on a provisional basis.

2. At this stage the applicant approached this Tribunal with the contention that he had completed one year seven months and 25 days of service in the post office as EDDA and his preferential claim for selection on account of his continuance in the post has not been considered and that the selection of the fourth respondent is illegal. He also challenged Annexure-5 and 8 and sought *** a direction

h

to the second respondent to give him compassionate appointment in terms of Annexure-2.

3. When the case came up for admission on 2.2.1989 the learned counsel appearing on behalf of the applicant submitted that he is withdrawing the challenge against Annexure-5 and the fourth relief prayed for in the application and the applicant may be allowed to pursue the application with respect to cancellation of Annexure-8 order and the benefits/under I.D. Act and the Tribunal passed the following order:

"Permission is granted in that respect. We admit the application only as above.".....
X X X X
The counsel of the applicant prays for the interim relief that is claimed in the application to stay the appointment of the fourth respondent pursuant to the order at Annexure-8. In view of the averments in the application we hereby direct the respondents 1 to 3 not to implement the order at Annexure-8 (order dated 23.1.89) for a period of two weeks."

This order was extended and the applicant is now working in the post and he filed O.A. 163/89 for a compassionate appointment challenging the order rejecting his claim for such an appointment.

4. Today we have considered the applicant's case O.A. 163/89 and disposed of it with the direction that the respondents may make enquiry and pass fresh orders considering the applicant for compassionate appointment in terms of Annexure-2 within a period of three months and till a final decision is taken on that matter and communicated to him, he may be allowed to continue as EDDA, Ala Sub Post office taking into consideration of the fact that he is continuing ever since the filing of

the Original Application under the interim order passed in this case which has been produced as Ext. A-7 in this case. This interim order was not vacated till the disposal of the case. Even though the order was vacated along with the dismissal for default of the case on 1.11.89. ~~xxx~~ it was restored on 6.11.89 and it was submitted at the bar that the applicant is continuing in the post now. Under these circumstances, we feel that the challenge of the applicant for quashing the selection of the fourth respondent need not be considered at this stage because if the applicant satisfies the respondents that his family position is such that it is indigent enough for getting compassionate appointment, he will succeed in getting the appointment and continue in that post in which he is now allowed to continue by the respondents as a nominee of his father even before his death as stated in the application.

5. The fourth respondent's selection was made in a manner ^{hasty} and the applicant has serious allegations against it and he also argued that the selection was made without considering the preferential rights of the applicant. But in the ^{the decision} light of /we have taken in the connected case we are of the view that we need not finally pronounce about ^{the validity} on the contentions raised in this O.A. / the validity of the appointment of the fourth respondent. We feel that the applicant should place his grievances against the

..

appointment of the fourth respondent, before the first respondent by filing a detailed representation raising all his contentions now raised in this application so that (first respondent) ^{contentions} he may have the opportunity to meet the ^{contentions} and correct the mistake, if any, has crept in the manner of selection and appointment of the fourth respondent. The applicant will have the freedom to challenge the selection of the fourth respondent in case his contentions are not accepted by the first respondent and his representation fails.

6. On the facts and circumstances of the case, we dispose of this application, in the interest of justice, with the following directions without finally deciding the questions raised in this case:

- i) The applicant may file a detailed representation before the first respondent raising all grounds against the appointment of the fourth respondent, as Extra Departmental Delivery Agent, Ala on a provisional basis as per Annexure-8 order, within a week from the date of this judgment;
- ii) If he files such a representation it shall be heard and disposed of according to law, after giving an opportunity of being heard to both the applicant and the fourth respondent, within three months from the date of receipt of such a representation from the applicant.
- iii) The respondents 1 to 3 shall keep in abeyance Annexure-8 order till a final decision on the representation of the applicant is taken and they have the freedom to issue fresh order in the light of the final decision on the representation to be submitted by the applicant pursuant to the direction in this judgment, in case it is favourable to the applicant.

7. Accordingly we dispose of this application with the above directions. There will be no order as to costs.

(N. Dharmadan)
Judicial Member

30.11.89

(S. P. Mukerji)
Vice Chairman