

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.79/99

Tuesday this the 20th day of April, 1999.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. B.N. BAHADUR, ADMINISTRATIVE MEMBER

T.G. Rajappan,
S/o T.M.Gopalan, aged 42 years,
residing at Tholoor Veedu,
N.S.H. Mount PO,
Kottayam-686006.

...Applicant

(By Advocate Mr. N.Unnikrishnan)

Vs.

1. The Senior Superintendent of Post Offices,
Kottayam Division,
Kottayam - 686 001.
2. The Sub Divisional Inspector of Post Offices,
Kottayam West Postal Sub Division,
Kottayam-686 001
3. Smt.K.V.Vigimol, D/o K.K.Vijayan Nair,
aged 20 years, residing at Vijayanivas,
Pallom PO, Kottayam-686 007. ...Respondents

(By Advocate Mr.A Sathianathan, ACGSC (R.1&2)

The application having been heard on 20.4.1999, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who claims to have been working as Extra Departmental Delivery Agent under the second respondent against the vacancies for the last seven years allegedly on provisional basis filed O.A.1301/98 when he was not being considered for regular selection and appointment to the post of Extra Departmental Delivery Agent, N.S.H. Mount PO for the reason that his name was not sponsored by the Employment Exchange. The Tribunal disposed of the

application directing the respondents to consider the candidature of the applicant also though not sponsored by the Employment Exchange. Pursuant to the above direction of the Tribunal, the candidature of the applicant was also considered alongwith the candidates sponsored by the Employment Exchange. Ultimately one Shri Ajaykumar who was considered to be the best among the candidates was selected and appointed. However as Ajaykumar did not take up the job, the third respondent was selected and appointed. Aggrieved by that the applicant had made a representation (A8) to the Senior Superintendent of Post Offices to which the applicant did not get any reply. In the meanwhile finding that the third respondent has been appointed and in that process the superior claim of the applicant, a person having more experience had been overlooked the applicant has filed this application impugning the selection and appointment of the third respondent and for a direction to the second respondent to consider the claim of the applicant and the third respondent afresh. It has been stated in the application that the qualification required for appointment to the post of EDDA being only 8th standard, the appointment of third respondent given on the basis of higher marks overlooking the experience gained by the applicant, is arbitrary and irrational and that the selection process has not been properly gone through as no cycling test was held.

2. Respondents 1. & 2 have filed a reply statement contesting the claim of the applicant. They contend that the selection had been made in accordance with the rules and the third respondent who was found to be more meritorious on

the basis of the marks in the SSLC examination has been selected and appointed. The claim made by the applicant on the basis of Annexure A9 is contested on the ground that this letter does not relate to selection but only to transfer of E.D. Agents from one post to another.

3. We have with meticulous care gone through the pleadings and the materials placed on record and have heard Shri Unnikrishnan, the learned counsel appearing for the applicant and Shri Sathinathan, ACGSC appearing for respondents 1 & 2. The applicant has claimed that the action of the respondents 1 & 2 in not selecting the applicant is opposed to the guidelines contained in the letter dated 28.8.96(A9) of the Assistant Director General, as the applicant is a person who is senior to the third respondent having gained experience by working as E.D. Agent for a considerable time. Going through A9 letter we are of the considered view that the reliance placed on this letter is totally misplaced. This letter does not relate to appointment to the E.D. Posts by selection from among the nominees of employment exchange or those who have responded to the notification but relates to transfer from working E.D. Agents.

4. The next point urged by the applicant assailing the selection is that while the minimum qualification prescribed for the post is 8th standard selection made on the basis of marks obtained in the SSLC examination is wrong. We do not find any merit in the submission. According to instruction in regard to the selection to the post of Extra Departmental Delivery Agent though the minimum educational qualification required is 8th standard, a person having matriculation is to be preferred. In this case the applicant as also the third respondent are matriculates



but the third respondent has obtained 369 marks as against 255 marks obtained by the applicant in the matriculation examination. The question is whether the higher marks in the matriculation examination can be considered as higher merit. This position was considered by this Bench in its order in O.A.367/97 and it was held that selection of candidates having better marks in the matriculation examination for E.D. posts cannot be faulted as the higher marks in the matriculation examination can be considered as a reasonable criteria for selection. We are in agreement with that view.

5. Learned counsel for the applicant argued that the applicant has been working as Extra Departmental Agent for seven years on a provisional basis and that no weightage has been given to this service. In the reply statement the respondents have contended that the case put forth in the application is totally false and that the applicant has functioned as EDDA as a substitute in the month of June, 1996 and November, 1996 and that substitutes are not entitled to any weightage in the matter of selection as per the extant rules. This contention of the respondents has not been disputed by the applicant by filing a rejoinder though sufficient time was given for that purpose. Therefore, we do not find any merit in this contention also.

6. Learned counsel next urged that a cycling test was not held. In the reply statement the respondents have stated that the selection was conducted as per rules. If a cycling test was considered necessary there is no reason why the respondents should not have held it. There is no allegation of any malafides against the officer who conducted the selection. In the absence of any such

averment, it is futile to contend that the selecting authority has deviated from the requirement in the instructions.

7. The last limb of the argument of the learned counsel for the applicant is that the respondent No.3 is overqualified and still pursuing her studies by arranging a substitute. If the third respondent having been appointed as Extra Departmental Delivery Agent is granted leave by arranging a substitute to pursue her higher education that is not a matter which is germane for consideration in this case. It is exclusively within the discretion of the competent authority to consider the requirement of service and to grant or refuse to grant leave to the working E.D. Agents for pursuing higher studies or for any other purpose. However, this does not vitiate the selection made.

8. In the light of the above discussion, we do not find any merit in this application and therefore, we dismiss the same leaving the parties to bear their own costs.

Dated the 20th April, 1999.

B.N.Bahadur

B.N.BAHADUR
MEMBER(A)

A.V.HARIDASAN

A.V.HARIDASAN
VICE CHAIRMAN

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List of annexures referred to in the Order:

1. Annexure A8 True copy of representation dated 5.10.98.
2. Annexure-A9 True copy of letter No.17-60/95-ED & Trg. dated 28.8.1996.