

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 8 1990
XXX-XXXX

DATE OF DECISION 21.12.1990

T.G.Damu Applicant (s)

M/s OV Radhakrishnan & K Radhamani Amma Advocate for the Applicant (s)
Versus

Assistant Superintendent of Post Offices, Ernakulam Sub Division, Cochin-24. & Others Respondent (s)

Mr. TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? NO
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant has prayed that the order dated 28.12.1988 at Exhibit -A3 by the Director General, Department of Posts and the order dated 31.7.1989 of the Chief Post Master General, Kerala rejecting his representation for compassionate appointment may be quashed and that the respondents may be directed to consider the applicant for regular appointment to the post of Extra Departmental Agent in any Post Office under the Ernakulam Sub Division or to direct the

him
respondents to appoint as E.D. Packer, Cheranallure under
the Ernakulam Sub Division.

2. The facts of the case averred in the application can be briefly stated as follows. The applicant's father Sri T.K.Gopi Nair who was a regular Delivery Mail Peon in Tatapuram Post Office in Ernakulam Division retired on invalid pension on 9.6.1987 and he died 11.7.1987. For some period when Sri.Gopi Nair was alive, the applicant had been engaged as a substitute Delivery Mail Peon in the Tatapuram Post Office. Even after the death of his father he had worked for sometime as Mail Delivery Peon. Thereafter he was provisionally appointed as ED Packer in Tatapuram Post Office from 22.9.1987 to 17.10.1988. While he was thus working as ED Packer, the post of ED Packer in Tatapuram Post Office was redistributed to Kakkanad Sub Office and as a result, the applicant was relieved from the post on 17.10.1988. The applicant has studied upto 8th standard and possesses all the eligible qualification to be posted as ED Packer. He has also registered his name in the Employment Exchange. On the death of his father, as his elder brother who is ^{was} employed ~~is~~ living away with his wife, the family became ~~is~~ indigent and the applicant made a representation for compassionate appointment to the Director General Posts. But this representation was rejected by the department. A further representation made by the applicant was also

rejected by order dated 11.7.1989. As there ~~is~~ ^a regular vacancy of ED Packer in Cheranallure Post Office under the Ernakulam Sub Division which is proposed to be filled up by selection from candidates nominated by Employment Exchange, the applicant claims that he is entitled to be appointed against that vacancy either on compassionate ground or on his own right as a retrenched ED Agent who has put in more than 240 days of service. The applicant therefore prays that the impugned orders, Exhibits 3 and 5 may be quashed and the respondents be directed to appoint him as ED Packer at Cheranallure or in any other ED Post in Ernakulam Postal Sub Division.

3. In the reply statement, the respondents have contended that the request of the applicant for compassionate appointment has been considered and rejected, and that his claim to be regularly selected to the post of ED Packer at Cheranallure cannot be considered for the reason that his name had not been sponsored by the Employment Exchange and also because he is not a resident of Cheranallure.

4. We have heard the arguments of the learned counsel on either side and have also carefully gone through the records produced.

5. By our order dated 22.1.1990, this Bench had directed the respondents to consider the applicant also

provisionally and subject to the outcome of the Original Application for selection to the post of ED Packer. It appears that the applicant had been provisionally selected and appointed as ED Packer, Cheranallure in the vacancy created by the promotion of Smt. Ambujakshi Amma as Postman. The learned counsel for the applicant has produced a copy of the order of the Assistant Superintendent of Post Offices Ernakulam Sub Division which reads as follows:

"Shri T.G.Damu, S/o late Sri T.K.Gopi Nair Ex DMP, Tatapuram is provisionally appointed as EDP, Cheranallure vice Smt. Ambujakshi Amma promoted to the cadre of Postman, with immediate effect."

The learned counsel for the applicant submitted that as the post of ED Packer, Cheranallure is vacant, and that the selection was a regular one, he will be satisfied if the respondents are directed to make this appointment regular and that if that is done, he does not wish to press the claim for quashing the impugned orders Exhibit-3 and 5. The learned counsel for the respondents submitted that the selection and appointment of the applicant on a provisional basis was only made on the basis of the direction from the Tribunal, and that as the applicant is not a resident of Cheranallure and since he has not been sponsored by the Employment Exchange, it will create complications if he is regularly appointed to that post. Residential qualification in the case of an ED Packer as per the instructions on the subject is only that,

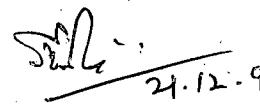
they may as far as possible reside in or near the place of their work. The applicant is residing ~~only~~ admittedly only 6 or 7 kilometres away from Cheranallure. So that cannot be considered as ~~an~~ disqualification. It is also not disputed that the applicant has got all the other requisite qualification for the post excepting that his name was not sponsored by the Employment Exchange. But the applicant has registered his name with the Employment Exchange and he was considered for selection and was appointed provisionally only pursuant to the order of the Bench as an interim measure. Though normally sponsoring the candidates by Employment Exchange and residing near to the Post Office should be insisted upon, in this case, taking into account the fact that the applicant is a son of an Ex-Postal Employee who died immediately after his premature retirement on medical invalidation, and that the representations of the applicant ~~ex~~ for compassionate appointment has not been granted and also considering the fact that the family of the applicant had been reduced to indigent circumstances on account of the premature retirement and death of his father, we are of the view that a relaxation has to be made in the case of the applicant as a special case, and he has to be appointed as ED Packer, Cheranallure on a regular basis.

6. In view of what is stated in the foregoing paragraph, the application is disposed of with a direction

to the respondents to appoint the applicant to the post
of ED Packer, Cheranallure, (where he has been appointed
provisionally) on a regular basis in relaxation of the
requirements regarding the appointment of ED Agents.

There is no order as to costs.


21.12.90
(A.V. HARIDASAN)
JUDICIAL MEMBER


21.12.90
(S.P. MUKERJI)
VICE CHAIRMAN

21.12.1990