

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.90/98

Monday this the 27th day of July, 1998.

CORAM

HON'BLE MR.A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Soman .K.
aged 48 years, S/o Bhaskaran,
Thariote North,
Calicut.

...Applicant

(By advocate Mr. Mathew Abraham)

Vs.

1. The Senior Superintendent,
Department of Posts, India,
Office of the Senior Superintendent of
Post Offices, Calicut Division,
Calicut.2.

2. U.M.Thahir, EDDA, Muttill,
Department of Posts,
Calicut Division, Calicut.

3. K.P.Jayachandran,
B.P.M. Thazhathoor,
Department of Posts,
Calicut Division.

...Respondents

(By Advocate Mr. James Kurien, for R.1)

The application having been heard on 27.7.98, 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 was the seniormost
E.D.Agent in the Calicut Division is aggrieved that the
list of candidates selected for appointment as Postman
from among the E.D.Agents on the basis of the seniority
quota (25%) his name was not included while it included
the names of respondents 2&3 who are 12th and 13th in the
gradation list. According to the applicant the
Recruitment Rules for appointment of E.D.Agents on the
basis of seniority quota as Postman does not prescribe
for any minimum educational qualification. The

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non-inclusion of the applicant's name and the inclusion of the names of respondents 2 and 3 according to him is for the reason that he does not possess the minimum educational qualification of 8th standard is illegal, unjustified and opposed to the provisions contained in the Recruitment Rules. With these allegations the applicant has filed this application to have the A3 list quashed to the extent it does not contain his name and contains the names of Respondents 2 and 3 and for a direction to the first respondent to select the applicant as Postman in the OBC quota.

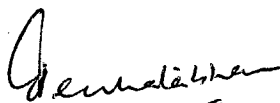
2. The first respondent seeks to justify his action in not selecting the applicant on the ground that in the notification issued it was clearly made out that E.D.Agents to be considered for promotion as Postman under the 25% quota should have acquired the minimum educational qualification of 8th standard and that therefore the applicant is not entitled for promotion.

3. On a careful scrutiny of the pleadings as also the provisions of the Recruitment Rules we find that the action of the first respondent in not considering the applicant for promotion as Postman though he is the seniormost E.D.Agent on the ground that he does not have the educational qualification of 8th standard is totally illegal and not supported by any rules. The administrative instruction repugnant to the statutory recruitment rules has no force at all and cannot be held out as the reason to deny promotion against the provisions of the recruitment rules. The applicant being the seniormost E.D.Agent having the required length of

service is entitled to be considered for promotion even though he does not possess the educational qualification of 8th standard. The non-inclusion of the applicant in the select list while respondents 2 and 3 his juniors belonging to the same category have included is therefore, illegal and liable to struck down.

4. In view of what is stated above, the application is allowed. The Annexure.A3 to the extent it does not contain the name of the applicant at the appropriate place for appointment as Postman is set aside. The first respondent is directed to include the applicant's name in the appropriate place in the select list and to consider his appointment to one of the posts of Postman. This shall be done as expeditiously as possible, at any rate within a period of two months from the date of receipt of a copy of this order and the seniority of the applicant shall be adjusted accordingly. The applicant shall also be given notional fixation of pay with effect from the date on which a person below him in the gradation list of E.D.Agents was appointed as Postman against the seniority quota. There is no order as to costs.

Dated the 27th day of July, 1998.



P.V.VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

- f. Annexure A3: True copy of the result of examination and select list published by the 1st respondent dated 24.11.1997.

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