

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 91/91

T.A. No.

199

DATE OF DECISION 11.9.91.

Mr. K.R. Valsalan Applicant (s)

Mr. S.K. Balachandran Advocate for the Applicant (s)

Versus

The Sr. Supdt. of Post Office Respondent (s)
and another

Mr. P. Sankarankutty Nair, Advocate for the Respondent (s)
ACGSC

CORAM:

The Hon'ble Mr. NV Krishnan Administrative Member

The Hon'ble Mr. N Dharmadan Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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? No

JUDGEMENT

SHRI N DHARMADAN, JUDICIAL MEMBER

The applicant has filed this application under Section 19 of the AT Act, 1985 to quash the order of the 1st respondent posting the 2nd respondent as EDBPM at Mamala and for a direction to the 1st respondent to appoint her in that post.

2. According to the applicant, she registered her name in the Alwaye Employment Exchange on 30.1.74 for getting a job. Pursuant to the requisition issued by the 1st respondent her name was also sponsored for consideration to the post of

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EDBPM, Mamala. She is fully qualified and as per Annexure I she was directed to appear on 12.9.90 at the office of the Ist respondent for interview. In the interview she was found to be most meritorious and suitable person for the selection. Accordingly, she was selected in accordance with the rules for the appointment as EDBPM, Mamala. She was also directed to attend the training. For two days, 9th and 10th of November, 1990, she attended Mamala Post Office. Thereafter she continued the training for six days from 12th to 17th November, 1990 at Kureekad Post Office. But later she was told by the Ist respondent that she need not continue the training and appointment order will be sent to her in due course. While waiting for an appointment order she got information that the 2nd respondent has been appointed as EDBPM, Mamala without any selection. The applicant submitted that the 2nd respondent was a retrenched Mail Carrier from Trippunithura Palace Post Office and he is not eligible to be appointed as EDBPM. She further submitted that the 2nd respondent was not considered for a regular selection.

2. The 1st respondent has filed a counter affidavit.

He has admitted that in the regular selection the applicant was found suitable and selected her as EDBPM, Mamala. She was also sent to attend the training programme. But he has further submitted that consequent on the abolition of the post of Mail Carrier of the Cochin Palace w.e.f. 13.1.90 the 2nd respondent was available for filling up of this post of EDBPM, Mamala. Accordingly, considering the representation of the 2nd respondent he was posted as EDBPM, Mamala. Originally the 2nd respondent was offered a posting at Maradu Post Office, w.e.f. 13.11.90. But, he did not join the post. He submitted a representation for getting an ^{work} appointment in the present ^{at} Mamala Post Office. No other reason was stated in the reply statement for denying appointed to the applicant who has been regularly selected for the post of EDBPM, Mamala, in accordance with the rules.

3. Though notice was issued to the 2nd respondent none appear to defend his case. Nor did he file any reply in this case denying the allegations and averments in the application representing the 2nd respondent.

4. We heard the arguments of the learned counsel on both sides and considered documents. This is a case whether the applicant has been duly selected after notifying the vacancy and completing all the formalities for a regular selection. After completing such formalities and initiating training programme as a prelude to the posting of a selected candidate viz., the applicant, the 1st respondent cannot change his mind and ~~xxxxxxxxxxxxxx~~ appoint a person of his choice in her place, without any valid reason. The reason mentioned in the reply affidavit by the respondents cannot be accepted. Unless the selected candidate is found unsuitable on any account the 1st respondent cannot deny an appointment to her. The 2nd respondent was not selected for the post of EDBPM, Mamala. In fact, the 2nd respondent's request after his retrenchment was accepted by the authorities and he was granted a posting at Maradu. He should have joined at Maradu Post Office. Presumably because of some inconvenience he did not join there. He submitted a representation for getting a posting at Mamala and the first respondent obliged him in an illegal manner.

The 2nd respondent never worked as EDBPM previously and he was not even considered for the post in Mamala alongwith the applicant and others. He is not eligible to be posted at Mamala in the place of the applicant, after denying appointment to her. Hence, we are not prepared to accept the action of the Ist respondent as legal. We are also of the view that the appointment of the 2nd respondent as EDBPM, Mamala is not in order in that the 2nd respondent was working only as Mail Carrier in the Palace Post Office. He had no experience as EDBPM and the Ist respondent has not stated that his efficiency for working as EDBPM had been tested and he was found fit for the job. In that view he cannot be considered for the post of EDBPM. Accordingly, we quash the appointment of the 2nd respondent as EDBPM, at Mamala Post Office.

5. It is submitted that in pursuance of the interim direction the applicant was given a posting as Stamp Vendor in another Post Office. But, she is not satisfied with that posting. She submitted that she may be directed to be posted as EDBPM, Mamala after completing the training.

6. In the result we allow the application and direct the Ist respondent to allow the applicant to

complete her training, if necessary to be completed further, and appoint her as EDBPM in the Mamala Post Office pursuant to the selection already made by the first respondent to that post. This shall be done after replacing the 2nd respondent within a period of one month from the date of receipt of the copy of the judgement. The application is therefore allowed.

There will be no order as to costs.


11.9.91

(N. DHARMADAN)
JUDICIAL MEMBER


11.9.91

(NV KRISHNAN)
ADMINISTRATIVE MEMBER