

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXX No.

96/91

1991

DATE OF DECISION 30.4.1991

B.Prasannakumari _____ Applicant (s)

Mr.O.V.Radhakrishnan _____ Advocate for the Applicant (s)

Versus

Sub Divisional Inspector of Post Offices, _____ Respondent (s)
Shertallai Sub Division, Shertallai and another

Mr.T.P.M Ibrahim Khan,ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 11.1.1991 filed under Section 19 of the Administrative Tribunals Act, the applicant who had earlier worked as Extra Departmental Packer on a provisional basis and ^{also} as a substitute at Mayithara Market Post Office, Sherthalai and is a resident of Sherthalai South Village where the Post Office is located, has challenged the notice issued by the Employment Officer, Sherthalai inviting applications for the post of Extra Departmental Packer in the said Post Office and has prayed that the respondents be directed to consider the applicant also for selection for regular appointment as Extra Departmental Packer in the same Post Office. She has also prayed that the Sub Divisional Inspector of Post Offices, Sherthalai (the first respondent) be directed not to terminate the provisional service of the applicant till a final selection is made.

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2. According to the applicant she had worked as Extra Departmental Agent at the aforesaid Post Office intermittently between 1.12.87 and 22.6.89 and she has been working as Extra Departmental Packer there continuously from 24.10.1990. She is a resident of the village where the Post Office is situated and she had got herself registered with the local Employment Exchange on 22.9.1981. She had passed SSLC and satisfies all the eligibility conditions for the post of E.D Packer. She has challenged the notice (Ext.A1) issued by the Employment Exchange inviting applications for the same post, on the ground that the notice contrary to the prescribed qualifications for the post, invited applications only from those who had passed SSLC, are "permanent resident within the delivery area of Mayithara Post Office" and restricted the candidature to those who had registered themselves on or before 29.8.1975. She has argued that in accordance with the letter of D.G,P&T the educational qualification for the post of E.D Packer is that ^{one} ~~she~~ should have sufficient working knowledge of the regional language and simple arithmetic. The residential qualification prescribed is that the candidate must be permanent resident of the village where the Post Office is located. As against these, applications have been invited by the impugned notice only from those who had passed SSLC and are permanent resident within the delivery area of the Post Office. The impugned notice also arbitrarily restricts the candidature to those who had got themselves registered with the Employment Exchange prior to 29.8.75.

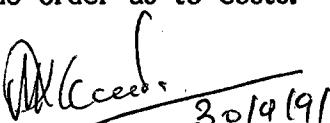
3. The respondents in their counter affidavit have conceded that the applicant was provisionally appointed as Extra Departmental Packer in the aforesaid Post Office on 1.12.87 and was allowed to continue as such till 4.5.88. She had worked as substitute for different spells from 21.6.88 to 22.6.89 and again from 25.10.90 to 18.1.91. She has been working as substitute E.D Packer from 20.1.91 onwards. The respondents have fairly conceded that the impugned notice at Annexure-1 "is in violation of the instructions issued by the Director General(Posts), so far as educational and residential conditions are concerned". They have, however, insisted that her name must be sponsored by the Employment Exchange and they are not aware why her name was not sponsored. There is no rule by which

provisional appointees or substitutes are to be given preference.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The respondents themselves have conceded that the impugned order is contrary to the prescribed educational and residential qualifications. Restricting the candidature to those who are registered upto 29.8.75 is also arbitrary. In the circumstances the notice has to be set aside.

4. This Tribunal has been taking the view that working E.D Agents should be considered for regular selection even though their names are not sponsored by the Employment Exchange. As regards weightage to be given for their previous experience, this is a matter entirely for the selecting authority to consider in accordance with extant orders etc.

5. In the facts and circumstances we allow the application, set aside the impugned notice at Ext A1 ^{also} and the further action taken thereon and direct that a fresh notice should be issued strictly in accordance with law and that the applicant also should be considered for regular selection even though ^{her} ~~his~~ name is not sponsored by the Employment Exchange. We further direct that the applicant should be continued till a regular appointment to the post held by her materialises. There will be no order as to costs.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

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