

Central Administrative Tribunal
Ernakulam Bench

MA 122/13 in OA No.98/2013

and
OA No.98/2013

Tuesday this the 25th day of June, 2013.

C O R A M

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Ashokan A.K., age 48 years
S/o K.Gopalan
Gramin Dak Sevak Mail Packer/Carrier
Varam Post Office
Residing at Valiyannur
Varam P.O.
Kannur-670 594. Applicant

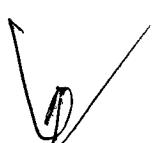
(By Advocate: Mrs.R.Jagada Bai)

Versus

1. Union of India represented by
the Secretary
Department of Posts
New Delhi-110 001.
2. Chief Postmaster General
Kerala Circle
Trivandrum-695 033.
3. The Post Master General
Northern Region
Kerala Circle, Kozhikode-673 011.
4. The Superintendent of Post Offices
Kannur Division
Kannur-670 001.
5. The Assistant Superintendent of Post offices
Kannur Division, Kannur-670 001. Respondents

(By Advocate: Mr.Sunil Jacob Jose, SCGSC)

Misc. Application as well as Original Application having been heard on 21st June, 2013, the Tribunal on 25:06.2013 delivered the following:-



ORDER**HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER**

The OA has been filed with a delay of more than two and half years from the date of cause of action. Delay involved is explained as under:-

- (a) There had been no response to the representation dated 05-05-2010 from the respondents.
- (b) The existence of GSR dated 04-10-2012 came to the notice of the applicant only recently.

2. The facts of the case are that the applicant is an ex-serviceman and had been re-employed as ED Packer, Varam Post Office since December, 1990. He had preferred a representation to the Chief Post Master General, Kerala Circle for extending the benefit of reservation of vacancy to the eligible re-employed ex-serviceman functioning as GDS. In November, 2012, vacancies for the post of Postman were notified and the applicant preferred his application for the same. Thus his prayer is for a declaration that he is entitled to be considered as Ex-Serviceman candidate for recruitment to the cadre of Postman/Multi Tasking Staff from among Gramin Dak Sevaks.

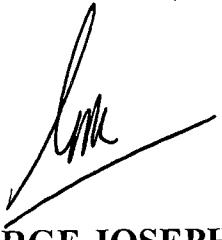
3. The OA has been accompanied with an application for condonation of delay of two and a half years.

4. Respondents have filed their objection to the delay application. They have stated that the claim of the applicant is contrary to the existing Recruitment Rules and delay is for a period of two and a half years. There is no justification for delaying the delay in filing the OA.

5. Counsel have argued on the lines as contained in the Misc. Application.

6. Arguments were heard. Admittedly, there is no reservation for ex-serviceman under the GDS quota for the post of Postman. What the

applicant needs is such a reservation. This is an OA seeking to create a new right and not one to establish the existing right. The notification for appointment of postman having been published in accordance with the Recruitment Rules, no change is to be contemplated. Reservation for Ex-service man for the post of Postman under the normal rules is permissible right from the year 1983 as could be seen from Annexure A-4. It is in addition to the above that the applicant needs reservation for Ex-serviceman who have been engaged as GDS, from the GDS quota. This would mean that there is an ex-service man quota in GDS, there is an ex-serviceman quota for appointment as Multi Task Staff and in addition, the applicant desires to have ex-serviceman quota in the GDS quota. Once an Ex-serviceman gets an appointment as GDS, he has to be treated only as GDS which the respondents are following. In case, there should be an intermediate quota for Ex-serviceman serving as GDS from the GDS Quota for appointment as Group-C/Multi Task Staff, the same becomes a policy matter, which is under the exclusive prerogative of the respondents. Thus, even if the OA had been filed within time, there would be little scope of the OA being allowed. The question of condonation of delay for such a long time would arise if there be merit in the case. In the instant case, as stated above, the scope of the OA being allowed is remote. As such, MA for condonation of delay fails and the same is dismissed. Consequently, this OA is also dismissed on account of Delay in filing the O.A. No costs.



(K.GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(DR.K.B.S.RAJAN)
JUDICIAL MEMBER