

**CENTRL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.No.98/2004**

Wednesday this the 17<sup>th</sup> day of August, 2005

**CORAM:**

HON'BLE MR. K. V. SACHIDANANDAN, JUDICIAL MEMBER  
HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

M.Gangadharan,  
Gramin Dak Sevak (Mail Delivery),  
Kuttiattoor Post Office, Mayyil (Via),  
Kannur District – 670 602. Applicant

(By Advocate Shri P.M.Pareeth)

**Vs.**

1. Chief Postmaster General,  
Thiruvananthapuram.
2. Post Master General, Calicut.
3. Superintendent of Post Offices,  
Kannur Division, Kannur-1.,
4. Union of India, represented by Secretary,  
Ministry of Communications,  
Government of India,  
Central Secretariat, New Delhi.

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

**The application having been heard on 17.8.05 the Tribunal on the same day delivered the following:**

ORDER(Oral)

**HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER**

The applicant entered service as EDDA-1 in 1990. The 3<sup>rd</sup> respondent invited applications for Postman Examination in 2002 and vacancies were notified. The 3<sup>rd</sup> respondent directed the officials to forward the details of physically handicapped Gramin Dak Sevaks. Examination was conducted on 24.11.2002 and the applicant appeared for the examination. The Select List was published in 2003 excluding the applicant. The applicant submitted a

representation on 15.1.2004. The 3<sup>rd</sup> respondent informed the applicant that none is selected under Physically Handicapped Quota. Aggrieved the applicant has filed this O.A. seeking the following reliefs:

- i. To call for the records leading to Annexure A7 and quash the same;
- ii. To call for the records leading to Annexure A-8 and quash the same to the extent it restricts selection and appointment of disabled persons as Postmen only in Metropolitan cities.
- iii. To declare that the applicant is entitled to be selected and appointed to the cadre of Postman in the vacancy earmarked for physically handicapped Gramin Dak Sevaks on the basis of his qualification and performance in the written examination for recruitment to the post of Postman held on 24.11.2002;
- iv. To direct the 3<sup>rd</sup> respondent to appoint the applicant as Postman and post him in the open vacancy set apart for physically handicapped Gramin Dak Sevaks.


2. The respondents have filed a reply statement on 22.6.2004 and additional reply statement. In the reply statement they contended that, the applicant was a candidate who has applied for the post along with others and the examination was conducted on 29.9.2002, which was cancelled and a re-examination was conducted on 24.11.2002 and the applicant too has appeared. Only two departmental candidates had qualified in the examination. It is stated in the reply that, as per the Government of India, Dept. of Personal & Training O.M. dated 28.2.1986 (Annexure-R1), only in Metropolitan cities, the visually handicapped candidates under the physically handicapped quota, can be posted as Postman. Four out of the six unfilled vacancies were filled up on the basis of merit in the examination conducted on 24.11.2002. One ST vacancy and one physically handicapped vacancy remain to be filled up. Shri N.K.Surendran who filed O.A.979/03 happened to be one among the candidates selected on the basis of merit and hence the Original Application was withdrawn. The contention of the applicant is that, he is the only handicapped candidate who appeared in the examination is against facts. He is one of the four such candidates having 40% disability who had appeared in the examination. The respondents have contended in para 4 of the additional reply statement that:

"It is further submitted that the unfilled vacancies of the

departmental quota could be added to the GDS quota only after getting the approval of the screening committee. Further in connection with filling up of the PH vacancy, the 1st respondent intimated in letter No.Rectt/12-2/PT-1 dated 28.10.2003 that visually handicapped candidates could be posted in Postman category only in metropolitan cities under PH quota. Against this background, one Sri N.K. Surendran, one of the visually handicapped candidates filed O.A.979 of 2003 before this Hon'ble Tribunal seeking appointment as Postman under the PH category. Meanwhile 2<sup>nd</sup> respondent in letter No.Rectt./3-2/2002/II dated 17.12.2003 directed that unfilled vacancies relating to the departmental quota be filled up by direct recruitment by transferring the vacancies to the GDS merit quota. According, four of the six unfilled vacancies were filled up on the basis of merit in the examination conducted on 24.11.2002. One ST vacancy and one PH vacancy remain to be filled up. The applicant in O.A.No.979 of 2003 happened to be one among the candidates selected on the basis of merit. O.A.No.979/2003 was withdrawn by the applicant Sri.N.K.Surendran. On 15.1.2004, the applicant submitted a representation to this Respondent requesting to publish a list showing the eligible candidates to be considered for the vacancy reserved for the physically handicapped and to appoint him as Postman, by Annexure A-6. This respondent informed the applicant by Annexure A-7 letter stating that none was selected under physically handicapped quota."

In para 7 of the additional reply statement the respondents have further stated as follows:

"With regard to Ground D, it is submitted that in Annexure A8 it has not been mentioned that the physically handicapped persons with the following handicaps such as partially deaf(PD), deaf(D), partially blind (PB) and both legs affected but not arms (BL) and who are eligible for selection as Postman under PH quota only in Metropolitan cities should be engaged for delivery of Postal articles. In such cities there are Posts of Postman vending stamps and such other posts with indoor duties in Postman cadre. Those who are posted in such posts need not go out for delivery work. The above mentioned category of physically handicapped persons on being selected as Postman can be posted against such posts considering their disabilities. In places other than Metropolitan cities such posts are either not available or are very rare. In villages there are no such posts. The logic behind such a stipulation is clear from the above facts. There may be other factors also for such stipulation. The condition that partially blind persons should not be selected for a appointment, as Postman anywhere other than Metropolitan cities is applicable only to posts reserved for physically handicapped. A physically handicapped GDS who pass competitive examination competing with physically fit GDSs cannot be denied appointment under merit quota, as such, a denial is against natural justice. Sri. N.K. Surendran, who is reported to be partially blind passed the Postman examination in merit quota competing with physically fit GDSs. He was therefore, posted as Postman.




Restriction imposed by Annexure A-8 is for quota reserved for physically handicapped. The fact that the applicant has been working as GDS Mail Deliverer (EDDA) for more than 14 years does not relax the conditions in Annexure A-8."

3. Shri P.M.Pareeth, learned counsel appeared for the applicant and Shri TPM Ibrahim Khan, learned SCGSC appeared for the respondents.

4. Counsel for the parties took us to various pleadings, evidence and material placed on record. Counsel for the applicant argued that Annexure R-1 Circular has no relevance as far as Kerala State is concerned. The applicant has also contended in his rejoinder that other similarly placed persons were considered for appointment as Postman by the 3<sup>rd</sup> respondent. Counsel for the respondents on the other hand argued that, the restriction in appointment of the handicapped persons in Metropolitan cities has been placed by Annexure R-1, because they need only to sit in the Post Offices and engage them in works other than delivering the letters etc., which is not possible in the villages.

5. We have heard the counsel on both sides. It is an admitted fact that the applicant appeared in the examination against handicapped quota. The O.M dated 28.2.1986 has been issued by the Depart of Personnel & Training in which it is shown that, the categories of Postmen reserved for the job in Metropolitan cities are PD, D, PB, BL and according to the respondents because of that restriction the applicant's case has not been considered. Vide A-3, the vacancy position relating to the examination was notified, i.e total 8 vacancies (ST-1, PH-1, UR-6) for departmental quota and 5 vacancies (ST-1, OBC-1, UR-3) were notified in respect of GDS quota. As there was no candidate in the PH category in the departmental quota, it was notified vide A-4, and that the same was added to GDS quota. The officers were directed to forward the medical certificate in respect of physically handicapped GDS, if any, among the candidates who had applied for the examination. In response to the notification four PH, GD sevaks including the applicant had submitted medical certificates and all the four were visually handicapped candidates having 40% disability. They had applied for the examination under the General Category and accordingly they were permitted to appear for the examination.



6. It is surprising to note that, a disabled person who is suitable to work in a Metropolitan city is unsuitable to work in a village. In Metropolitan city unlike in villages the job requirement involves arduous physical exertion due to higher volume of work, and in such circumstances, if he is suitable to work in a Metropolitan city, there is no reason to deny the same opportunity to him in a village where the job requirement is comparatively less.

7. Apart from that, Sri. N.K.Surendran (one of the four visually handicapped candidates) filed O.A.979/03 before this Tribunal seeking appointment as Postman under the physically handicapped quota. Four of the six unfilled vacancies were filled up on the basis of merit in the examination conducted on 24.11.2002. Mr.Surendran happened to be one among the candidates selected on the basis of merit and hence, he withdrew the O.A.

8. The respondents in para 7 of the additional reply statement contended that there is a condition that, partially blind persons should not be selected for appointment as Postman anywhere other than Metropolitan cities and is applicable only to posts reserved for physically handicapped. A physically handicapped GDS who passes competitive examination competing with physically fit GDSs cannot be denied appointment under merit quota, as such, the denial is against natural justice. Shri .K Surendran is a partially blind and passed the Postman examination in merit quota competing with physically fit GDSs. He was, therefore, posted as Postman. The restriction imposed by Annexure A-8 is for the quota reserved for physically handicapped persons. The fact that the applicant has been working as GDS Mail Deliverer (EDDA) for more than 14 years does not relax the conditions in Annexure A-8."

9. From the above submission, it is clear that, Shri Surendran has been appointed as Postman despite the fact that, he is a physically handicapped person. If the rule is that a physically handicapped person cannot be posted as Postman in places other than Metropolitan cities, his appointment does not appear to be correct.. The finding that whether he came on merit quota or otherwise is immaterial. Therefore, if Shri Surendran can be considered for that post, other handicapped persons also will be considered for the said post. This arguments advanced by the learned counsel for the applicant has some force. Apart from that, we find that Shri N.K.Surendran who has come out of merit quota has been

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appointed in the physically handicapped quota. Therefore, denying an opportunity to the physically handicapped persons to have their chance for appointment, is against the provisions of Constitution and also the dictum laid down by the Hon. Supreme Court.

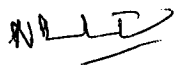
10. Considering the above facts and circumstances, we are of the considered view that the appointment of Shri N.K.Surendran to the handicapped quota despite the fact that he came on merit quota is not in the true spirit of legal principle. Therefore, we find that the quota earmarked for physically handicapped GDSs on the basis of his qualification and performance in the written examination for recruitment to the post of Postman should be filled from that category of persons, in the event that vacancy is available with the respondents.

11. Then the question comes whether the applicant is eligible for appointment or not? Admittedly, the applicant appeared for the examination. However, we find that three other candidates in response to the notification have also appeared in the examination, the result of which are not yet published.

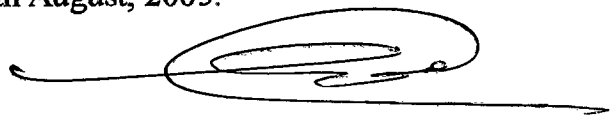
12. Under these circumstances, we direct the respondents to publish the results and consider the applicant and or any other eligible candidate from the handicapped quota for appointment in the said post, if they found otherwise eligible and suitable. The Selection Committee will do the exercise within a period of two months from the date of receipt of a copy of this order.

13. O.A. is disposed of as above. In the circumstances no order as to costs.

Dated the 17th August, 2005.



N.RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN  
JUDICIAL MEMBER