

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. 1439/98 and O.A.No. 101/99

FRIDAY, THIS THE 24TH DAY OF SEPTEMBER, 1999.

C O R A M:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

&

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

O.A. 1439/98

C. C. Sasikala  
Extra Departmental Delivery Agent,  
Azheekal Post Office, Ernakulam. ..Applicant

By Advocate Mr. P.C. Sebastian

Vs.

1. The Assistant Superintendent of Post Offices,  
Kochi Sub Division, Kochi-682011
2. The Senior Superintendent of Post Offices  
Ernakulam Division, Kochi-682011
3. The Postmaster General, Central Region,  
Kochi-682 016. ..Respondents

By Advocate Mr. James Kurian

O.A. 101/99

V.V. Martin  
Vattakkattu House  
Vennala P.O.  
Kochi-28. ..Applicant

By Advocate Mr. K. G. Anil Babu

Vs.

1. C.C. Sasikala  
Extra Departmental Delivery Agent,  
Azheekal p.O.  
Ernakulam District.  
  
The Assistant Superintendent of Post Offices  
Kochi Postal Sub Division, Kochi-1  
  
The Senior Superintendent of Post Offices,  
Ernakulam Division, Kochi-682011...Respondent

By Advocate Mr.P.C. Sebastian for R1

By Advocate Mr. George Joseph for R2 & 3



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The applications having been heard on 30.8.99, the Tribunal delivered the following on 24.9.1999.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Both the above Original Applications were heard together as per the direction contained in the judgment of the Hon'ble High Court of Kerala in O.P.N.O.13212/99 and are disposed of through this order.

2. The applicant in O.A. 1439/98 who is working as Extra Departmental Delivery Agent, Azheekal Post Office, is aggrieved by Al order No.EDDA/Azheekal dated 17.9.98 issued by the 1st respondent by which notice is served on her for termination of her service w.e.f. the date of expiry of one month from the date of receipt of the notice by her.

2.1 She stated in the O.A. that she entered service as part-time casual labourer doing the work of Sweeper at Perumanoor Post Office under the 1st respondent w.e.f. 30.6.83 and was continuously working in that capacity till her selection and appointment in the post of EDDA, Azheekal Post Office on 18.5.98. According to her as per DGP's letter A3 dated 6.6.98 casual labourers whether full time or part-time in the Postal Department were to be given preference in the selection to E.D. posts if they satisfy the prescribed eligibility conditions and were willing. She stated that when a vacancy of EDDA, arose at Azheekal Post Office she submitted A4 representation dated 10.12.97 to the first respondent with the request to appoint her in that vacancy. When the first respondent proceeded to make direct recruitment to the said post through employment exchange without considering her representation in accordance with A3 order, she approached this Tribunal through O.A. 609/98 seeking a declaration that



she was entitled to be considered for appointment in the vacancy of EDDA on preferential basis and direction to the first respondent to consider her for such appointment. The said O.A. was disposed of by this Tribunal as per A5 order dated 24.4.98. pursuant to which her case was considered and she was selected and appointed as EDDA as per A2 order dated 14.5.98. She claimed that she had been discharging her duties as EDDA, Azheekal to the satisfaction of the superior authorities including the first respondent, that she had not given room for any public complaints as regards her work or conduct and that she had not come up for any adverse notice of her superiors. She stated that the first respondent issued A1 termination notice dated 17.9.98 under Rule 6 of P&T ED Agents (Conduct & Service) Rules, 1964 without assigning any reason. She drew our attention to the endorsement in the said letter which referred to a letter issued by the second respondent. According to her, there was no illegality or violation of any statutory rules in her appointment as EDDA, Azheekal and that there was no valid ground warranting invocation of Rule 6 of the P & T Extra Departmental Agents (Conduct & Service) Rules in as much as there was no valid administrative reasons for the same. She claimed that the termination notice was arbitrary, unjust and illegal and violative of her rights under Article 14 and 21 of the Constitution of India. She submitted that as per the A6 clarificatory order of the DGP, Rule 6 of the P&T EDAs (Conduct & Service) Rules, could not be invoked for termination of service for any purpose other than general unsatisfactory work or any administrative reasons unconnected with the conduct of the official. Affirming that there was no complaint or adverse remark regarding her work or conduct nor was there any administrative reason such as abolition of post, etc. warranting termination under Rule 6,



she stated that the respondents were compellable to disclose the reasons for the impugned order before the Tribunal. She also pleaded that the termination notice issued by the first respondent was not on his own accord but at the instance of the second respondent who made review of the applicant's appointment behind her back and decided to terminate her services in a highly arbitrary manner without disclosing the reason and the action was ultravires and opposed to the principles of rule of law. According to her, no provision existed in the extant rules permitting a superior authority to review the appointment made by a lower competent authority in accordance with the rules and that the same is the settled principles of law by a number of decisions of this Tribunal. She cited the judgment of Hon'ble Supreme Court in Anirudh Singhji Karansinghji Jadeja Vs. State of Gujarat (1995) 5 SCC 303 and stated that issue of the impugned termination notice by the first respondent issued on the dictates of the superior authority amounted to non-exercise of his discretionary power independently which would mean that he had abdicated his power or the 2nd respondent had usurped the power of the 1st respondent. He submitted that according to the judgment such exercise of power by public authorities was null and void. She prayed for the following reliefs:

- (i) To call for the files leading to the issue of Al termination notice and quash the same;
- (ii) To declare that applicant is entitled to continue as Extra Departmental Delivery Agent, Azheekal as long as the said post is retained and that her services are not liable to be terminated under Rule 6 of the Posts and Telegraph Extra Departmental Agents (Conduct and Service) Rules except for unsatisfactory work;
- (iii) To grant such other reliefs which may be prayed for and/or which this Tribunal may deem fit, proper and just to be granted in the facts and circumstances of the case; and



(iv) To award costs for these proceedings in favour of the applicant.

3. The second respondent filed reply statement on behalf of respondents and resisted the claim of the applicant. They submitted that the second respondent in the O.A. was the Controlling authority of the first respondent and had power to review his action in exercise of his supervisory power to revise the administrative orders of the subordinate authorities for good and sufficient reasons. They submitted that while reviewing the selection file of EDDA, Azheekal the second respondent found that the selection made by the first respondent was irregular and hence he through R1 dated 14.9.98 directed the first respondent to terminate the irregular appointment and re-do the selection after observing the selection formalities. They stated that the selection of the applicant was irregular as she was selected overlooking the claim of the most meritorious candidate. It was claimed that A3 was a directory guideline and not a mandatory stipulation to confirm ED selection in favour of such a casual labourer without considering other material yardsticks and as the Department had evolved a temporary status scheme for regularisation of casual labourers, A3 which was issued prior to the said scheme has no relevance at present. It was further submitted that all things being equal among all candidates casual labourers would get precedent and that such an occasion had not arisen in the instant case. Comparing the marks obtained by one Smt. K.K. Rema and the applicant they submitted that had the relative merit been the yardstick for fair selection, Smt. K.K. Rema would have been selected as she had obtained 316 marks whereas the applicant had only 288 marks. They relied on the decision of this Tribunal in O.A.

367/97

in T.K. Kurian Vs. Sub Divisional Inspector,  
Perumbavoor and 3 others wherein the Tribunal had held marks



in SSLC as a right yardstick for fixing merit. The respondents stated that the selection to the post of EDAs were to be made based on the marks and the applicant got appointment as a result of an error in judgment. They drew attention to the decision in O.A. 609/98 and submitted that as directed by the Tribunal, the applicant was considered based on A4 instruction and other rules and guidelines, along with others and found that she was not eligible. According to them raising the same issue, the applicant could not agitate the matter again. It was claimed that termination of the service was proposed on administrative grounds. Granting the benefit of appointment to the applicant would take away the right of several other similarly situated casual labourers as the vacancy was not notified among casual labourers. It was stated that the second respondent reviewed the case in accordance with the R2 guidelines issued by the DGP, the rule making authority for the EDAs. They prayed for the dismissal of the O.A.

4. Applicant filed rejoinder wherein she reiterated the pleadings in the O.A. She submitted that Extra Departmental Agents (Conduct & Service) Rules 1964 specified the classification of various categories of E.D. Agents and the appointing authority for each category and as held by different Benches of the Tribunal there was no provision in the said Rules empowering a higher authority to review the appointment made by a lower authority in accordance with the provisions of the Rules and that respondents had not cited any provisions in the said Rules in support of the contention that 2nd respondent being the controlling authority was empowered to review the appointment made by the 1st respondent. She claimed the well settled principle of law that review power is not inherent but had to be conferred by law and that action of the second respondent directing the first respondent to



terminate applicant's service was ultravires. She further claimed that second respondent passed R1 proceedings behind the back of the applicant without affording her an opportunity of being heard and that the second respondent's action had a serious adverse civil consequence on the applicant and that the same was violative of the principles of natural justice. She stated that temporary status scheme mentioned by the respondents was not applicable to part-time casual labourers and that A3 order was still in force and none of the respondents herein had any power to over-rule it. She also contested the claim of the respondents that A3 was not a mandatory stipulation and that the same was against the practice in other divisions of Kerala Circle. She also contested the claim of respondents that selection to the post of EDAs were to be made based on the higher marks in SSLC and stated that the same was incorrect as the minimum educational qualification for all categories of EDAs other than ED Branch Postmaster and ED Sub Postmaster was 8th standard as per the existing rules and the stipulation to make selection based on higher marks of SSLC was applicable only to EDBPM and EDSPM for whom the minimum educational qualification was SSLC and there was no error or irregularity in the selection of the applicant by the first respondent who was the competent authority. She also submitted that the grounds/reasons shown for termination of the applicant's service are not a ground coming under the provision of Rule 6 of the P&T ED Agents (Conduct & Service) Rules, as laid down by the High Court of Kerala in its judgment in Postmaster Vs. Usha (1987 (2) KLT 705) which had been followed by different benches of this Tribunal in a number of cases. She also submitted that the orders of DGP at R2 produced by respondents was only a clarificatory order having no force or effect in the absence of specific provisions in the P & T ED Agents (Conduct &



Service) Rules and would not confer any review power to the second respondent to review the appointment of the applicant. She further submitted that the second respondent had not followed even the instructions contained in R2. She pleaded for allowing the O.A.

5. When the O.A. came up for admission on 6.10.98 an ad interim order was issued till the next date of hearing directing that the service of the applicant would not be terminated on the basis of the impugned order at A1 and on 28.10.98 the said interim order was ordered to be continued till further orders. On 6.11.98, Shri V.V. Martin -applicant in O.A. No.101/99 filed a Misc. Application No.1023/98 seeking to be impleaded as additional 4th respondent in the O.A. This M.A. was dismissed. His O.P.No.23131 of 1998 filed in the High court of Kerala impugning this order of dismissal of M.A. was dismissed. The said Sri Martin had approached this Tribunal earlier through O.A. 627/98, claiming to have applied for selection and appointment to the post of EDDA, Azheekal Postoffice along with other candidates sponsored by the employment exchange and apprehending that his candidature may not be considered by the respondents for the reasons that the employment exchange had not included his name in the list of names to be shortlisted, seeking to direct the respondents to consider his name also in the selection along with others sponsored by the employment exchange even if his name was not sponsored. This O.A. was disposed of with a direction to the respondents to consider his candidature in the interview scheduled to be held on 27.4.98 or any deferred date for selection and appointment to the post of EDDA, Azheekal Postoffice even if his name had not been sponsored by the Employment Exchange.

6. Shri Martin filed O.A. 101/99 in which the applicant in O.A. 1439/98 was made as the first respondent and Respondents





1 & 2 of O.A. 1439/98 were made as second and third respondents. Through this O.A. No. 101/99 Shri Martin sought to call for papers leading to the appointment of the first respondent and to quash the same and for a declaration that her termination of service was correct and for a direction to the second respondent (1st respondent in O.A. 1439/98) and to appoint the applicant as EDDA, Azheekal Postoffice. This Tribunal after the filing of the reply statement by the official respondents and after hearing the counsel for the official respondents dismissed the O.A. in limine on 4.3.99. Against this order of dismissal, the applicant Sri Martin filed O.P.13212/99 before the High Court of Kerala seeking to quash the order of the Tribunal and to direct the Tribunal to restore the O.A. No.101/99 and consider and dispose of the same along with O.A. 1439/98. As directed by the High Court O.A.101/99 was heard along with O.A. 1439/98

7. In O.A. 101/99, the applicant's case is that the second respondent did not conduct interview of the applicant as per the direction of the Tribunal in O.A. No. 627/98 on the plea that time was over and the first respondent (applicant in O.A.1439/98) was appointed in that vacancy as per A2 order dated 14.5.98. He contended that the first respondent was not entitled to be appointed because she was having lesser marks than the applicant in the SSLC examination and the said irregularity of the selection and appointment of the first respondent was complained by the applicant before the third respondent who on verification terminated the service of the first respondent vide A3 order dated 14.9.98. According to the Applicant, A3 order was correct and when he came to know that O.A. against A3 order was pending, he filed impleadment application which was rejected. Applicant therefore, filed

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this O.A. on the plea that the appointment of the first respondent was not correct and was liable to be set aside as the applicant obtained more marks than the 1st respondent and that the first respondent could not have any preferential claim on the basis of previous working as EDDA, Perumanoor Branch office, which had been correctly found out by the 3rd respondent and the termination was correct. He also submitted that third respondent had authority and jurisdiction to terminate the service of the first respondent being the supervisory authority in support of which he quoted A4 letter dated 13.11.97 issued by the Director General of Posts. He submitted that he being the highest mark holder in SSLC deserved to be appointed.

8. The official respondents filed reply statement resisting the claim of the applicant. They submitted that the applicant neither applied for the post of EDDA, Azheekal P.O. nor he attended the interview and that the first respondent was selected for the post by the second respondent. They stated that the applicant had no locus standi to agitate the matter before the Tribunal since he did not take part in the selection process and he had not appeared for the interview as per orders of this Tribunal.

9. Heard the learned counsel for the parties. We have given careful consideration to the pleadings on record and the submissions made by the counsel for the parties in both the O.As and have also perused the documents brought on record.

10. We will first deal with O.A. 1439/98. The applicant in this O.A. had approached this Tribunal through O.A.No.609/98 apprehending that the respondents would make the selection for the post of EDDA, Azheekal Postoffice ignoring her preferential claim based on A3 instructions of the DGP dated 26.6.88. This OA. was disposed of on 24.4.98 with the following directions:



" in the light of what is stated above, the application is disposed of directing the respondents to take a decision regarding selection and appointment to the post of EDDA, Azheekal P.O. considering the case of the applicant in the light of A4 circular and other orders, rules and instructions on the subject. No costs."

11. A3 Letter of the DGP dated 6.6.88 was referred to as A4 circular in the above directions which is reproduced below:

" Preference to casual labourers in the matter of appointment as E.D. Agent.

According to the prevalent recruitment rules governing the cadre of Group 'D' the order of preference among various segments of eligible employees is as under:

- (a) Non-test category
- (b) E.D. Employees
- (c) Casual Labourers
- (d) Part-Time casual labourers

2. Since the number of vacancies of Group 'D' is limited and the number of E.D. employees eligible for recruitment as Group 'D' is comparatively large the casual labourers and part time casual labourers hardly get any chance of their being absorbed as Group 'D'. Thus majority of casual labourers with long service are left out without any prospect of their getting absorbed in Group D cadre.

3. Keeping the above in view a suggestion has been put forth that casual labourers both full time and part time should be given preference for recruitment as Extra Departmental Agents in case they are willing. With a view to afford the casual labourers a chance for ultimate absorption as Group D.

4. The suggestion has been examined in detail and it has been decided that casual labourers whether full



time or part time who are willing to be appointed to E.D. vacancies may be given preference in the matter of recruitment to E.D. Posts, provided they fulfil all the conditions and have put in a minimum service of one year. For this purpose a service of 240 days in a year may be reckoned as on year's service. It should be ensured that nominations are called for from Employment Exchanges to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for E.D. vacancies have initially been sponsored by Employment Exchange."

12. It is evident from the above letter that casual labourers whether full time or part time who fulfill the condition stipulated therein should as a class be given preference in the matter of recruitment to E.D.posts.

12.1 When this is the position we are unable to accept the plea of the respondents that A3 was a directory guideline and not a mandatory stipulation to E.D. selection in favour of such casual labourers. Further, the plea of the respondents that A3 letter has no relevance due to the temporary status scheme for casual labourers introduced by the department cannot also be accepted for the reason that the Department had not withdrawn A3 order after the said scheme was introduced. In any case, it cannot be accepted that conferring temporary status will improve the chances of absorption of casual labourers in/ <sup>Group 'D'</sup> and remove the 'Raisond'etre' for the issue of A3 letter dated 6.8.88.

13. Further, the statement in para 4 that casual labourers should be appointed only after getting nominations from the employment exchange would give an indication that the intention was that in case there are willing casual labourers for being recruited as E.D. Agents, there is no further need



for inviting applications from the employment exchange for recruitment of ED Agents. We are of the view that casual labourers should be given preference in the matter of recruitment to the E.D. posts over outsiders. In our considered view, the letter dated 6.8.88 does not envisage a comparative evaluation of merit between outsider candidates and serving casual labourers and therefore there is no need for notifying the vacancies to the Employment Exchange and calling names of candidates once a casual labourer expresses willingness to be considered for posting as an E.D. Agent. Moreover, no instruction or rule which states that the cases of casual labourers whether part time or full time should be considered along with nominees of the Employment Exchange for selection as ED Agents has been produced.

14. The reasons advanced by the third respondent in R1 letter dated 14.9.98 to the effect that the merit of the candidates should be on the basis of the marks in the SSLC examination cannot be accepted as the qualification prescribed for EDDA is only 8th standard.

15. Thus, we find that the reasons advanced in R1 letter dated 14.9.98 issued by the second respondent cannot be sustained.

16. Now we will examine whether the second respondent can take action as she had done if she had valid reasons to effect that the selection of the applicant was irregular. According to the Respondents, action has to be taken as per R2 instruction of the DGP dated 13.11.97. Para 3 of this letter dated 13.11.97 is as follows:

The situation arising out of CAT judgments questioning the validity of the remedial action ordered by reviewing authorities has been deliberated upon thoroughly. It is observed that an authority which is



higher than the appointing authority, in accordance with established principles, enjoys supervisory powers to revise the administrative orders of the subordinate authorities for good and sufficient reasons and pass appropriate remedial orders after following the procedure indicated below:-

(i) The question whether appointment of particular ED Agent to a post was erroneous or not should be decided by an authority next higher than the appointing authority in accordance with the established principles governing appointments.

(ii) In regard to appointment which was made in contravention of executive or administrative instructions, there is no objection to the competent authority passing an order rectifying the earlier erroneous appointment order of the ED Agent which was passed in contravention of the existing rules/instructions whether statutory or administrative/ executive, as otherwise, it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government, however in these cases the principles of Natural Justice should be complied with by giving the ED Agent a show cause notice and opportunity to be heard before passing any order adversely affecting him. There is no need to invoke ED Agents (Conduct and Service) Rules, while passing final orders in such cases.

(iii) Cases of erroneous appointments should be viewed with serious concern and suitable disciplinary action should be taken against the officials and staff responsible for such erroneous appointments.

17. It is very specifically mentioned in para 3(ii) above that there is no need to invoke E.D. Agents (Conduct and Service) Rules while passing final orders in the cases of this type. It has been provided that the principle of natural justice should be complied with by giving the E.D. Agent a show cause notice and also disciplinary action should be taken against officials/staff responsible for the erroneous appointment. Nothing is brought on records by the



respondents to indicate the action taken against the officials and staff responsible for the irregular appointment. Further, from the impugned order A1 it is seen that the termination is being done in pursuance of Rule 6 of E.D. Agents (Conduct and Service) Rules 1964. This is clearly against the provisions in the letter dated 13.11.97. Further, A1 order had been issued without following the principles of natural justice. No show cause notice as contemplated in the letter dated 13.11.97 appears to have been issued. On this score A1 order cannot be sustained.

18. Further, the High Court of Kerala in Postmater Vs. Usha reported in 1987 (2) KLT 705 has held:

"Hence, we have no hesitation in taking the view that the termination of service on any administrative ground contemplated by rule 6 is a ground or reason that arises after the appointment and that on grounds that have arisen before or in regard to the appointment, termination cannot be done under rule 6."

19. On the basis of the ratio of the judgment of the Kerala High Court, irregular selection cannot be treated as an administrative reason under Rule 6 of the E.D. Agents (Conduct and Service) Rules. We also note that the other provisions laid down in the R2 circular letter dated 13.11.97 had not been followed prior to issue of A1 order. Thus, we are of the view that A1 order cannot be sustained.

20. In view of the detailed analysis as given above, the O.A. 1439/98 succeeds and the termination notice A1 dated 17.9.98 is set aside and quashed. We declare that the applicant is entitled to continue as EDDA, Azheekal P.O. as long as the said post is retained and her services are not liable to be terminated except as provided for in the rules.



21. In the light of our above order in O.A. No.1439/98, and for the reasons that the applicant in O.A.No.101/99 had not applied for the post nor had he attended the interview as per the directions of this Tribunal in O.A. 627/98, he is not entitled for any of the reliefs sought through the O.A.

22. In the light of the foregoing, we allow O.A.No.1439/98 as above and dismiss O.A. No. 101/99. Under the circumstance, the parties will bear their own respective costs.

Dated the 24th September, 1999.



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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List of Annexures referred in this Order

O.A. 1439/98

A1 True copy of Order No.EDDA/Azheekal dated 17.9.98 issued by the 1st respondent to the applicant.

A3 True copy of letter No. 17-141/88-EDC & Trg dated 6th June, 1988 sent by Director General, Department of Posts

A4 True copy of representation dated 10.12.97 submitted by the applicant before the 1st respondent.

R2 True copy of letter No. 19-23/97-ED & TRG dated 13.11.97 issued by the Director General, Department of Posts

O.A. 101/99

A2 True copy of letter of 2nd respondent No. EDDA/Azheekal dated 14.5.98 appointing 1st respondent as EDDA, Azheekal.

A3 True copy of the order of the 3rd respondent No.EDDA/Azheekal dated 17.9.98 terminating the services of the 1st respondent

A4 True copy of the Govt. order No.19-23/97-EDE TRG dated 13.11.97.



CERTIFIED TRUE COPY

Date 28.9.99

Deputy Registrar



CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.101/99

Thursday this the 4th day of March, 1999.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. R.K. AHOOJA, ADMINISTRATIVE MEMBER

V.V.Martin,  
Vattakkattu House,  
Vennala PO,  
Kochi.28.

...Applicant

(By Advocate Mr.K.G.Anil Babu)

Vs.

1. C.C.Sasikala, Extra Departmental Delivery Agent, Azheekal PO, Ernakulam District.
2. The Assistant Superintendent of Post Offices, Kochi Postal Sub Division, Kochi.1.
3. The Senior Superintendent of Post Offices, Ernakulam Division, Kochi.682011.

...Respondents

(By Advocate Mr. George Joseph, ACGSC for R2&3)

The application having been heard on 4.3.1999, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant has filed this application impugning the A2 order by which the first respondent has been selected and appointed as Extra Departmental Delivery Agent, Azheekkal Post office for a declaration that the termination of the services of the first respondent as per A.3 order is correct. He has also prayed for a direction to the second respondent to appoint the applicant as Extra Departmental Delivery Agent at Azheekkal Sub Post Office.

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2. The basis of the claim of the applicant is that though the Tribunal had directed in the order in O.A. 627/98 that the applicant also should be considered for selection to the post of Extra Departmental Delivery Agent, Azheekal Post Office, when he appeared before the second respondent he was not interviewed and the first respondent was appointed without any interview. It is also alleged that on a complaint that the appointment of the first respondent was irregular the third respondent had rightly directed the termination of the services of the first respondent and that the challenge to that order by the applicant made in her application O.A.1439/98 is without substance. The applicant alleged further that though he filed a Miscellaneous Application for impleadment the Tribunal rejected that Miscellaneous Application and that the Hon'ble High Court has also dismissed the OP filed against the order of rejection of the Miscellaneous Application. However, the applicant states that the appointment of the first respondent being irregular and as the applicant has got better marks than the first respondent, the impugned order A2 is liable to be set aside declaring that the termination of the services of the first respondent made by A3 order is perfectly legal and for a direction to the second respondent to appoint the applicant.

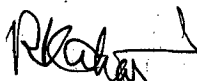
3. Respondents 2&3 have filed a reply statement in which they have contended that though the applicant was also directed to be considered by this Tribunal in the orders in O.A.627/98 the applicant not having applied and not being present at the interview, there was no occasion for consideration of the candidature of the applicant.

Therefore, the respondents 2&3 contend that the applicant has no locus standi to challenge the impugned order.


4. We have perused the application and have heard the learned counsel for the respondents 2&3. On a careful scrutiny of the material available on record, we are of the considered view that the applicant has no locus standi to challenge the A2 order of appointment of the first respondent. The applicant having not put forth his candidature by making an application in response to the notification and not being personally present at the time of interview though he had got an order from this Tribunal that he should also be considered in the selection, he has absolutely no right to be considered. Therefore, in the selection of the first respondent he is not a person aggrieved. He is not entitled for a declaration that the termination of the service of the first respondent under A3 is legal because the affected person the first respondent has already filed an application which is pending before this Tribunal. Further in that matter the applicant is not a person aggrieved and has no locus standi.

5. In the light of what is stated above, the application is dismissed in limine leaving the parties to bear their costs.

Dated the 4th day of March, 1999.

  
R.K. APOOJA

ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A2: True copy of the Letter of the 2nd respondent No.EDDA/Azeeckal dated at Kochi 682001 the 14.5.1998 appointing the 1st respondent as EDDA Azhæeckal.
- 2., Anexure A3: True copy of the Order of the 3rd respondent No.EDDA/Azeeckal dated 17.9.98 terminating the services of the 1st respondent.

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