

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.103/98

Thursday the 19th day of March 1998

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR S.K. GHOSAL, ADMINISTRATIVE MEMBER

Rekha Vasudevan S.
Saarkkara Bungalow
Thazhava P.O.
Karunagappally
Kollam

...Applicant

(By advocate Mr OV Radhakrishnan)

Versus

1. Senior Supdt. of Post Offices
Kollam
2. A. Meera
W/o Late Prem Viswanath
EDBPM
Karunagappally North P.O.
Kulasekharapuram S.O.
3. Union of India, represented by its
Secretary, Ministry of Communications
New Delhi. ...Respondents.

(By advocate Mr Varghese P Thomas, ACGSC (R1 & 3)
Mr KK Balakrishnan (R2)

The application having been heard on 19.3.98, the
Tribunal on the same day delivered the following:

O R D E R

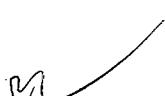
HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The second respondent in this case is the widow of
late Prem Viswanath who died in harness while working as
Extra Departmental Branch Post Master, Thattakattu Market
S.O. On his death, the Circle Relaxation Committee considered
the case of the second respondent and found that the second
respondent deserved employment assistance and she was appointed
as Extra Departmental Branch Postmaster, Karunagappally North
S.O. on 25.12.97. The applicant who is eligible for
appointment to the post of EDBPM, Karunagappally and who
has registered her name with the employment exchange is
aggrieved by the appointment of the second respondent.

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Her claim is that respondents 1 & 3 have committed a mistake in appointing the second respondent in Karunagapally while she, as per the instructions, should have been appointed as EDBPM, Thattekkattu Market Branch Office where her late husband was working. Her contention is based on the instructions contained in Annexure A-5 dated 9.8.93, in regard to compassionate appointment to dependents in case of death of ED agents, and Annexure A-6, D.G. Posts' letter dated 2.2.94 wherein in the clarifications, it has been stated that compassionate appointment should be made to the post vacated by an ED agent; and if any such vacancy is not available in any other post office in the vicinity of place of residence. The applicant claims that the appointment of the second respondent to the post of EDBPM, Karunagapally in total disregard to the instructions contained in Annexure A-5 & A-6 is irregular and unjustified and that this has resulted in denial, of an opportunity to her to offer herself a candidate for the post and a chance of being selected and appointed. With these allegations, the applicant has filed this application for setting aside the appointment of the second respondent as EDBPM and for appropriate directions to respondents 1 & 3 to make selection to the post after notifying the vacancy to the employment exchange and in accordance with rules and instructions.

2. Mr Varghese P. Thomas for respondents 1 & 3 and Mr K.K. Balakrishnan for respondent No.2 have appeared as counsel. Respondents 1 & 3 have filed a reply statement in which they seek to justify the impugned action on the ground that the second respondent who was residing with

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her parents after the death of her husband, made a representation that it would be helpful to the family if she was appointed as EDBPM, Karunagapally, that she would vacate the post in the event the permanent incumbent returning to the post and would be willing to take appointment on any other available vacancy at that time, that this request was considered to be reasonable and just in the circumstances of the case and that was the reason why the second respondent was appointed at Karunagapally. Respondents 1 & 3 contend that there is nothing illegal in such appointment and that the applicant has no legitimate grievance.

3. On a perusal of the pleadings and on hearing the learned counsel appearing on either side, we are of the considered view that the action of the respondents (1 & 3) in appointing the second respondent as EDBPM, Karunagapally is neither illegal nor irregular requiring any intervention by the Tribunal. The instructions contained in Annexure A-5 & 6 are in the nature of guidelines which is permissive and not mandatory. If the compassionate appointee prefers to get appointment on a different post for valid reasons, the appointing authority has the discretion to consider the request and grant the same. The instructions contained in Annexure A-6 have been issued for the benefit of the compassionate appointee and cannot be considered to be for limiting the scope of compassionate appointment. The instruction was issued to see that compassionate appointments are made in the same place to avoid dislocation and inconvenience to the family concerned.

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4. In the light of what is stated above, we dismiss the application as it is devoid of merits.

No order as to costs.

Dated 19th March 1998.

(S.K. GHOSAL)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A5: Letter No.14-25/91-ED & Trg. dated 9.8.93 of the 3rd respondent.
2. Annexure A6: Letter No.17-85/93-ED & Trg. dated 2.2.94 of the Director General of Posts, New Delhi.

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