

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 104 of 1996.

Monday this the 6th October, 1997.

CORAM:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

C.O. Davis,
Chatheli House,
Annanad P.O., Chalakudy-680 324.

.. Applicant

(By Advocate Shri N. Nagaresh)

Vs.

1. Post Master General,
Central Region,
Kochi-682 016.

2. Assistant Director of Postal
Service, Central Region,
Kochi-682 016.

3. Sub Divisional Inspector,
Chalakudy Postal Sub Division,
Pariyaram, Thrissur-680 721.

4. K.K. Govindankutty,
Korathedath House,
Annanad P.O.

.. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC (for R.1-3)

By Advocate Shri P.Ramakrishnan (for R.4)

The application having been heard on 6th October, 1997,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant is a person whose name was sponsored by the Employment Exchange for the post of Extra Departmental Delivery Agent (EDDA for short), Annanad P.O. which was vacant consequent on the regular incumbent being put off duty. The 4th respondent was placed in the said vacancy on an ad hoc basis, from 4.3.93 pending regular selection. Thereafter, a selection was held on 25.5.93 and the grievance of the applicant is that even though he had higher marks in the S.S.L.C. examination the fourth respondent was selected

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and appointed provisionally by impugned order A-3 dated 12.1.94. Applicant contends that the selection of the 4th respondent is not in order since the marks secured in the examination should be the criterion for the selection. He relies on Annexure R-2(A), according to which the selection for the post of Extra Departmental Sub Postmaster and Branch Post Master is to be on the basis of marks secured in the matriculation or equivalent examination and the same principle should, according to applicant, be held applicable to the post of EDDAs also. The selection had been earlier questioned before the Tribunal in O.A. 1695/94 filed by the applicant and the Tribunal had directed that the department will examine the position and ascertain whether a regular selection has been made, and if not, make a regular selection. As a consequence, the impugned order A-6 was passed declaring that the selection of 4th respondent was a regular one. Applicant challenges A-6 and prays that both Annexure A-3, the order appointing the 4th respondent, and Annexure A-6 be quashed.

2. Learned counsel for respondents 1-3 submits that as seen from R-2(A), the selection for the post of EDDA is not on the basis of the marks secured in the matriculation examination unlike in the case of EDBPM and EDSPM. According to R-2(A) only preference may be given to candidates who had matriculation qualification even though the minimum educational qualification is 8th Standard. In this case, respondents submit that both the 4th respondent and the applicant have the preferred qualification of SSLC and that the 4th respondent was selected because he had prior experience in the post as seen from Annexure R.2 (B).

3. 4th respondent has submitted in his reply that the Tribunal while disposing of O.A. 1672/91 observed that the marks secured in the SSLC examination should not be the sole deciding factor. In a subsequent O.A. No.1522/93 the

same principle was followed. In G.A. 871/94, the Tribunal observed that neither marks nor experience can be determinative by themselves and that overall consideration will have to be made with reference to the relevant aspects in an objective and reasonable manner in making the selection.

4. We have gone through the order R-2 (A). It is clear that the educational qualification for EDDAs is only the 8th Standard but that preference may be given to candidates who have matriculation qualification. Both the applicant and the 4th respondent have this preferential qualification. The instruction that the selection should be based on the marks secured in the matriculation or equivalent examination applies only to the posts of EDSPMs and EDBPMs and there is no such corresponding instruction with reference to the post of EDDAs. That being so, both the applicant and the 4th respondent have to be placed on an equal footing as far as the educational qualification is concerned. The selection thereafter of the 4th respondent based on weightage given to the service rendered by him cannot be faulted even though such service may have a component of substitute service which would not be eligible for consideration for grant of weightage since he has experience also as a provisional hand. Therefore, we do not find anything in the selection of the 4th respondent which justifies intervention.

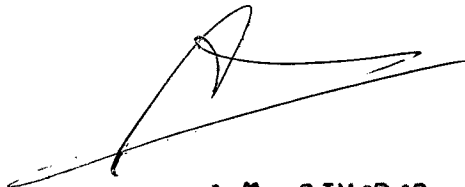
5. There is a prayer relating to the selection and appointment of applicant against the permanent vacancy of EDDA, Annanad which arose consequent on the termination of the service of the erstwhile incumbent with effect from 21.6.93. According to respondents 1-3, the disciplinary proceedings against the erstwhile incumbent were finalised only on 23.12.94 and he was removed from service. The permanent vacancy, therefore, arose only on 23.12.94. The vacancy which has been

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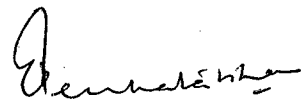
filled up by the impugned order A-3 dated 12.1.94 could not therefore, be as a result of a selection held to fill up a regular vacancy on a permanent basis which arose only on 23.12.94. Respondents 1 to 3 will have to hold a further selection consequent on the services of the original incumbent being terminated on 23.12.94. Learned counsel for respondents submits no selection has been held after 23.12.94 and that a regular selection will be held within three months. If such a selection is held to fill up the vacancy on a regular basis the applicant shall also be considered.

6. Application is disposed of as aforesaid. No costs.

Dated the 6th October, 1997.



A.M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A3: True copy of the Order No.DA/5 dated 12.1.94 of the Sub Divisional Inspector, Chalakudy Postal Sub Division.
2. Annexure A6: True copy of the Order No.CC/2-134/94 dated 15.12.95 of the Assistant Director of Postal Service, Central Region.
3. Annexure R2(A): True copy of the Order No.17-366/91-ED & TRG, dated 12.3.1993 issued by the Director General, Department of Posts, New Delhi..
4. Annexure R2(B): True copy of the Tabular Statement for Selection of Extra Departmental Delivery Agents, Annanad, dated 25.5.1993, prepared by Sub Divisional Inspector(posts) Chalakudy.

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