

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 109
T.A. No.

1990

DATE OF DECISION 23.7.90

K. S. Rajamma Applicant (s)

M/s. M. R. Rajendran Nair Advocate for the Applicant (s)

Versus
Sr. Supdt. of Post Offices,
Ekm and others Respondent (s)

TPM Ibrahim Khan for R1 to 3 Advocate for the Respondent (s)
OV Radhakrishnan for R4

CORAM:

The Hon'ble Mr. N. V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant was provisionally appointed as Extra Departmental Branch Post Master, Eroor West P.O. w.e.f. 31.7.1988 against the vacancy which admittedly was continuing from September, 1987, but was manned till then with the help of the Mail Overseer. Proceedings were initiated to fill up the post regularly in 1987 itself. In those proceedings, the fourth respondent was not called for interview on the ground that she had crossed the age of 30 years. Against this decision she filed O.A. K 32/88 which was allowed by us on 25.10.89

with a direction that all the persons sponsored by the Employment Exchange earlier and the fourth respondent be interviewed for the post.

2. While the proceedings were thus continuing, the applicant was provisionally appointed though she was not a candidate sponsored by the Employment Exchange for the regular appointment.

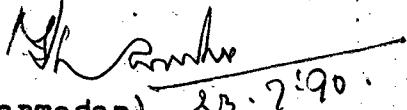
3. The respondents 1 to 3 ~~also~~ ^{xxx} interviewed ^{she also} the present applicant, in the interview held on 31.1.1990 when she also applied for consideration for regular appointment to the vacancy. Her allegation is that after the interview, when she came back to resume charge of the post office, she was denied access by the respondents and she was not allowed to work. Thereupon, the applicant has filed this application on 7.2.1990 praying that a declaration be given that she is a workman entitled to the protection of Chapter-V of the Industrial Disputes Act and also to direct the respondents to regularise the service of the applicant as EDBPM, Eroor West P.O.

4. The fourth respondent has submitted that in so far as the interview for regular appointment of this post is concerned, there has been no direction by the Tribunal to consider the case of the applicant, ^{that apart,} in the interview she is found fit and has been selected vide the order dated Ext. R-4(b) which has been filed along with the reply affidavit.

5. The applicant has not challenged the appointment of the fourth respondent to this post by R-4(b) order and therefore that order will continue to remain in force giving benefit to the fourth respondent of appointment against this post.

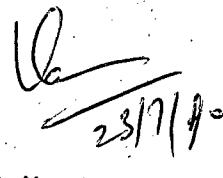
6. In so far as the request of the applicant for the benefit that may be available to her under Chapter V-A of the Industrial Disputes Act, 1947, we have heard counsel for respondents 1 to 3. He tried to argue that provisions of I.D. Act do not apply in this case. We have already considered this issue in a number of cases and we are of the opinion that the provisions of I.D. Act applies in the case of EDBPM. There is no doubt that the applicant was retrenched. The applicant has admittedly worked from 31.7.88 with intermittent breaks till 31.1.90. This clearly establishes that she has rendered more than 240 days of continuous service in twelve calendar months preceding ~~31.7.88~~ ^{31.7.89} and, therefore, she is entitled to the benefits of Section 25-F of the I.D. Act. Accordingly, we declare that the termination of her service without following the procedure laid down under Section 25-F of the I.D. Act is illegal and she is deemed to be continuing in service. (As a matter of fact, by an interim order we directed the respondents to put her back in service which is stated to have been done from 10.2.90). This declaration shall not stand in the way of respondents 1 to 3 from taking such action as they may consider necessary to terminate the services of the applicant in accordance with law to enable them to appoint the regularly selected 4th respondent to the post of Branch Post Master, Eroor West Post Office.

8. The O.A. is disposed of with the above directions but without any order as to costs.


(N. Dharmadan)

Judicial Member

23.7.90.


(N.V. Krishnan)

Administrative Member

23.7.1990.