

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.113 / 1998.

Monday this the 4th day of September, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

I. Rajeevan,
Vazholi Madathil,
Naduvannur P.O.,
Kozhikode.

Applicant

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. Sub Divisional Inspector, Postal Quilandy.

2. Superintendent of Post Offices,
Vadakara.

3. Union of India, represented by
Secretary to Government of India,
Department of Posts,
New Delhi.

Respondents

(By Advocate Mr. James Kurien, ACGSC)

The application having been heard on 4.9.2000, 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 been working as Extra Departmental Mail Carrier (EDMC for short) provisionally since 10.6.1996. When the post was being filled without considering the applicant for regular appointment, the applicant filed O.A. 1470/97. The counsel for respondents therein stated that on the combination of duties of two posts, there was no vacancy to be filled. The matter was noted and the application was disposed of without any further direction. The applicant's services were consequently terminated with effect from

19.12.97. He submitted a representation for consideration of his candidature for ED post to which he was served with the impugned order A-5 stating that his candidature would be considered, if his name is sponsored by the Employment Exchange. Again the applicant has filed this application for setting aside A-5 order for a declaration that the termination of the services of the applicant on 19.12.97 is null and void, to direct the respondents to reinstate the applicant in service with back wages and alternatively to direct the respondents to consider the case of the applicant for re-employment to any ED post under the respondents 1 and 2 by giving him preference under Section 25 H of I.D. Act, notwithstanding that his name is not sponsored by the Employment Exchange.

2. Respondents have filed a reply statement. We have gone through the application and also heard the learned counsel on either side. In view of the ruling of the Apex Court in Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. KBN Visweshwara Rao (1996 6 SCC 216), the stand taken by the respondents in A-5 that the candidature of those who would be sponsored by the Employment Exchange would only be considered, cannot stand.

3. Regarding the declaration prayed for by the applicant, as the vacancy had ceased to exist on combination of the duties and appointment of a regular ED Agent, the termination of services of the applicant consequent thereto cannot be



faulted. Therefore, the applicant is not entitled to the declaration sought.

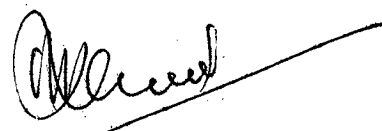
4. Regarding the claim of alternate employment as the applicant did not put in 3 years of provisional service while he was discharged as per the instructions on the subject, he has no valid claim. The claim based on the provisions of Industrial Disputes Act cannot be considered by this Tribunal, firstly, the applicant has not alleged that any other provisional ED Agent with lesser length of service has been reengaged and secondly, such claims are to be made before the forum prescribed under the Industrial Disputes Act.

5. In the light of what is stated above, we find no merit in this application and the same is dismissed, leaving the parties to bear their own costs.

Dated the 4th September, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

rv

Annexure A-5: True copy of the letter No. B3/ED/Qdi Sub Divn dated 13.1.98 issued by the 2nd respondent to the applicant.