

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.114/2001

Tuesday this the 17th day of September, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

K.Surendran
S/o Kumaran
Extra Departmental Messenger
Panoor P.O.
residing at Kunnummel House
Panoor P.O.

Applicant.

(By advocate Mr. K.S.Bahuleyan)

Versus

1. Union of India rep. by
Director General (Posts)
Government of India
Ministry of Communications
Department of Posts
New Delhi.
2. Chief Postmaster General
Kerala Circle, Trivandrum.
3. Superintendent of Post Offices
Thalasserry Division
Thalasserry.
4. Postmaster
Thalasserry.
5. Shri P.K.Mohanan
Group-D, Thalasserry H.O.

Respondents.

(By advocate Mrs. P.Vani, ACGSC for R1-4)

The application having been heard on 17th September, 2002,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant who was working as Extra Departmental Messenger,
Panoor Post Office, aggrieved by his non appointment to the cadre
of Group 'D' in Thalasserry Postal Division because of the
appointment of the 5th respondent filed this Original Application
seeking the following reliefs:

- (a) To quash A-4 to the extent it allots Shri P.K.Mohanan,
E.D. Packer, Kartikulam selected for appointment to the
cadre of Group-D to Thalasserry H.O.



- (b) To quash A-5 posting the 5th respondent as Group-D, Thalasserry Head Office.
- (c) To quash the selection of the 5th respondent to the cadre of Group-D in Thalasserry Division.
- (d) To direct the respondents to regularize the service of the applicant as Group-D in Thalasserry Postal Division.
- (e) To grant such other reliefs which this Hon'ble Tribunal deems fit and necessary in the circumstances of the case.
- (f) To award cost of the Original Application.

2. According to the applicant, he had been working as ED Messenger, Panoor Post Office since 1.6.77 and he was deployed as Group-D (outsider) in Tellicherry Head Post Office during the period from 13.8.99 to 12.12.99. From 13.12.99 to 31.5.2000 he had worked as Group-D (outsider) in Etakkad P.O. From 1.6.2000 to 11.10.2000 he had worked at Tellicherry H.O. According to the applicant, by A-1 letter dated 20.7.2000, the Directorate had decided that for the purpose of Group-D appointment, the crucial date for determining age would be 1st of July of the year in which the recruitment was made. He submitted that the Chief Postmaster, Kerala Circle by A-3 dated 6.10.2000 directed the appointing authorities under him to initiate action to fill up the Group-D vacancies arising upto 1999 keeping in view the provisions of Recruitment Rules. Pursuant to A-3, four EDAs were selected for appointment to the cadre of Group-D in Thalasserry Division by A-4 order dated 17.10.2000 of the 3rd respondent. By A-5 memo dated 18.10.2000 issued by the 4th respondent, 5th respondent P.K.Mohanan, E.D.Packer, Kartikulam was posted as Group-D, Thalasserry H.O. According to the applicant, as the said Mohanan was above the age of 50 years as on 1.7.2000 he was not eligible for appointment against any Group-D post. Applicant submitted A-6 representation dated 22.11.2000 to the third respondent. 3rd respondent directed the 4th respondent to



intimate the applicant that the said Mohanan was not over aged while calculating his eligibility for Group-D promotion and that his representation had been disposed of. Aggrieved, the applicant filed this OA seeking the above reliefs.

3. Respondents filed reply statement resisting the claim of the applicant. They submitted that the selection was conducted in accordance with the directions contained in A-3 letter of Chief Postmaster General on the basis of A-1 order dated 20.7.2000 and the Recruitment Rules for the post of Group-D. The said A-3 order was issued in pursuance to A-2 order of the Director (Staff) dated 21.9.2000, according to which the senior most EDAs working against vacancies in Group-D cadre arising upto 1999 may be regularized. While doing so, the provisions contained in the Recruitment Rules and the executive orders dated 20.7.2000 as well as the judgement of the Hon'ble High Court of Kerala dated 30.3.2000 in O.P.No.25172/98 were to be adhered to. They submitted that the applicant was accommodated in a Group-D vacancy as part of a stop gap arrangement in an unapproved capacity. The DPC had not cleared his name for selection to Group-D and the DPC on the basis of seniority and fulfillment of other eligibility conditions found the 5th respondent eligible for selection. The 5th respondent was clearly within the maximum age limit of 50 years as on 1.7.2000. It was submitted that the selection was in tune with the direction contained end of the common judgement dated 26.8.98 of this Tribunal in OA 239/98 and OA 449/98.

A handwritten signature in black ink, appearing to be in cursive script, is placed here.

4. Applicant filed rejoinder. Respondents filed additional reply statement.

5. Heard learned counsel for the parties. Learned counsel for the applicant Sri K.S.Bahuleyan took us through the factual aspects contained in the OA and submitted that had the respondents followed the instructions contained in A-1 order dated 20.7.2000 issued by the Directorate, the applicant would have got selected as Group-D as the 5th respondent was over aged by the time the selection was conducted. He submitted that the applicant's immediate senior N.K.Purushu had been empaneled by A-4 order. Learned counsel for the respondents Smt.P.Vani submitted that apart from the contents of the reply statement, this Tribunal by its order in OA 130/2000 dated 14.6.2002 had set aside and quashed A-1 order dated 20.7.2000 issued by the Directorate.

6. We find that the applicant is mainly relying on A-1 order issued by the Directorate dated 20.7.2000 for the reliefs sought for by him. In the order in OA 130/2002 dated 14.6.02 this Tribunal held as follows:

"10. In the result, in the light of the above discussion, we declare Annexure A11 order dated 20.7.2000 illegal, incompetent and inoperative and the stipulation in Annexures A12 and A13 to observe the stipulation contained in Annexure A11 is also inoperative. These three impugned orders are therefore quashed to the said extent. The respondents are directed to consider the case of the applicant for appointment to Group-D vacancies which arose in the year 1998 and 1999 on the basis of his seniority, irrespective of the fact that he has crossed the age of 50 years and to give him appointment as Group-D if he is found suitable by the Departmental Promotion Committee. In that event, the applicant should be given notional seniority with effect from the date on which a person below him in the seniority list of ED Agents has been appointed against the vacancies of any of these years.



The applicant shall not be entitled to arrears of pay and allowances on the basis of his notional appointment. The above directions shall be complied with within a period of two months from the date of receipt of a copy of this order. There is no order as to costs."

7. A-11 referred to in the above order is the order dated 20.7.2000 referred to as A-1 in this OA. Since this Tribunal has already set aside and quashed the said A-1 order dated 20.7.2000 and the applicant is mainly basing his claim on the basis of this letter, this letter no longer exists and this OA fails. Accordingly we dismiss this OA with no order as to costs.

Dated 17th September, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of Directorates's letter No.66-82/87-SPB I dated 20.7.2000.
2. A-2: True copy of letter dated 21.9.2000 issued by A.K.Dash, Director (Staff).
3. A-3: True copy of letter No.Rectt/13-2/2000 dated 6.10.2000 issued by Chief Postmaster, Kerala Circle.
4. A-4: True copy of Letter No.B2/1/99 dated 17.10.2000 of the 3rd respondent.
5. A-5: True copy of Memo No.1-1/2000-01 dated 19=8.10.2000 of the 4th respondent.
6. A-6: True copy of representation dated 22.11.2000 submitted by applicant before the 3rd respondent.
7. A-7: True copy of Divisional Gradation List of ED Agents of Thalasserry Division (No.B3/Gradation List dated 11.4.2000 issued by 3rd respondent.

Respondents' Annexures:

1. R-1: True copy of the common Order by C.A.T Ernakulam Bench in OA No.239/98 and OA No.449/98 dated 26.8.98.

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3.10.02