

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.120/2003

Dated Thursday this the 3rd day of April, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

1. G.Sajeev
Part time Casual Labourer
at Karingannur P.O.
Residing at Sajeev Bhavanam
Decent Junction P.O.
Mukhathala, Kollam. Applicant.

(By advocate Mr.P.C.Sebastian)

Versus

1. The Senior Superintendent of Post Offices
Kollam Division, Kollam.
2. The Sub Divisional Inspector of Post Offices
Kollam North Sub Division
Kundara P.O. Pin-691 501.
3. The Union of India represented by
The Secretary to Govt. of India
Ministry of Communications
Department of Posts
Dak Bhavan, New Delhi. Respondents.

(By advocate Mr.S.K.Balachandran, ACGSC)

The application having been heard on 3rd April, 2003, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

This is the second round of litigation. As per this Tribunal's order dated 24.12.2002 in OA No.859 of 2002, the respondents were directed not to proceed to appoint any person to the post of Gramin Dak Sevak Mail Deliverer until the applicant's representations were disposed of in the light of Director General (Post) letter dated 6.6.1988 and the Chief Post Master General (CPMG), Kerala Circle, Trivandrum letter dated 31.3.1992 (Annexures A-3 & A-4 respectively in the said OA) and keeping also in mind the various decisions of this Tribunal on similar matters. The respondents were directed to pass appropriate orders within the specified time frame. The applicant who is a

9

part time sweeper at Karingannur Post Office within Kollam Postal Division is seeking the post of Gramin Dak Sevak Mail Deliverer at Anakottoor under the second respondent within the same Division. Annexure A-3 order is under challenge in as much as the second respondent has disposed of the applicant's representation as follows:

"....the candidature of the applicant will also be considered along with other candidates sponsored by the Employment Exchange and those applied directly in response to the open notification as requested by the applicant in his A6 representation".

The following reliefs are sought:

- (i) To call for the files leading to the issue of A-3 and quash the same.
- (ii) To declare that applicant is entitled to be considered for appointment as GDS MD, Anakottoor in preference to totally outsiders.
- (iii) To direct the 2nd respondent to consider the applicant's candidature for the post of GDS MD, Anakottoor along with other casual labourer candidates if any separately and in preference to outsiders and to consider outside candidates only if applicant and other casual labourers if any are found to be unsuitable for the appointment.

2. The respondents have filed reply statement opposing the OA mainly on the ground that the applicant is seeking the post of GDS Mail Deliverer outside the recruiting unit within which he is at present working.

3. We have heard Shri P.C. Sebastian, the learned counsel of the applicant and Shri S.K. Balachandran, the learned ACGSC for the respondents. According to Shri Sebastian, the case of the applicant is squarely covered by the Director General (Post) letter dated 6.6.1988. He also stated that similar matter has been considered by this Tribunal in OA No.936/01 and by order

2

dated 10th January 2002, this Tribunal ordered that the willing casual labourers who were eligible should be first considered for appointment before resorting to any other method of recruitment. Thus the preference to be given to the part time casual labourers over the open market candidates as accepted in the DG (Post) letter dated 6.6.1988 is reiterated and confirmed by the Tribunal in the said order. That being the position, the applicant's case ought to have been considered and the respondents should not have taken recourse to the procedure to be followed in the case of appointment by transfer in relation to ED employees. Shri S.K.Balachandran, the learned ACGSC relied on the reply statement and maintained that the applicant's case could be considered only if the post applied for fell within the same recruiting unit.

4. We have considered the facts of the case. We do not find any support for the respondents' stand that the case of a part time casual labourer can be considered only if the ED post he applies for falls within the same recruiting unit. There is no such stipulation to our knowledge. We have gone through the D.G.(Post) letter dated 6.6.1988. The relevant extracts are given hereunder:

"4. The suggestion has been examined in detail and it has been decided that casual labourers, whether full time or part time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED posts, provided they fulfil all the conditions and have put in a minimum service of one year. For this purpose, a service of 240 days in a year may be reckoned as one year's service. It should be ensured that nominations are called for from Employment Exchange to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange".

2

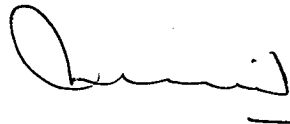
5. In our considered view, there is no rule prohibiting the consideration of part time casual labourers against ED vacancies outside a particular recruiting unit. Therefore, A-3 order is liable to be set aside as it is not in conformity with D.G.(Post) letter.

6. In the light of what is stated above, A-3 communication dated 29.1.2003 is set aside to the extent it holds that the candidature of the applicant will be considered along with other candidates sponsored by Employment Exchange and those applied directly in response to open notification. The respondents are directed to give the applicant preference in the matter of appointment as GDS Mail Server strictly in accordance with D.G.(Post) letter dated 6.6.88 and pass appropriate orders within a period of two months from the date of receipt of the copy of this order. No order as to costs.

Dated 3rd April, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

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