

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 120/2010

Dated this the 15th day of March, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

C. Arumugham, S/o. (Late) Chudala
Casual Labourer, Working as
Scavenger/MMS Cleaner at
Kollam Head Post Office
Residing at Nirakathuthod
K.C. No. 15/24(20-46)
Kallumthazhom (P.O.), Kollam - 691 004. Applicant

(By Advocate Mr. P.C. Sebastian)

Vs

- 1 The Superintendent of Post Offices
 Kollam Division, Kollam - 691 001.
- 2 The Director of Postal Services
 HQ Region, O/o. C.P.M.G.
 Kerala Circle, Thiruvananthapuram.
- 3 The Union of India
 Represented by Secretary to
 Government of India
 Ministry of Communications
 Department of Posts, New Delhi. Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The Application having been heard on 22.2.2011 the Tribunal
on 15.03.2011 delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant who had been conferred with temporary status prays for regularisation in service.

2. The applicant was engaged as a Scavenger w.e.f. 10.12.1976 by the Postmaster, Kollam Head Post Office on expiry of his father in 1976. When Mail Motor Service was introduced w.e.f. 10.1.1984, he was given additional duty as MMS Cleaner and when the Postal Divisional Office was shifted to the new departmental building, he was given additional work of Scavenger of that office also w.e.f. 28.3.1989. In short, the applicant contends that he was working for $8\frac{1}{2}$ hrs. daily and paid wages at hourly basis. The applicant submitted that he was entitled to be conferred with temporary status w.e.f. 27.3.1990 in terms of the extant Government orders/ the scheme drawn up by the Government pursuant to the directions of the Apex Court. He made several representations to the respondents. He had earlier approached the Tribunal through O.A. 390/09 seeking temporary status w.e.f. 27.3.1990. During the pendency of the O.A., temporary status was granted to him w.e.f. 27.3.1990 (A-3). Therefore, the Tribunal disposed of the O.A directing to grant the benefits arising out of conferring temporary status. Despite submission of several representations he was not granted consequential appointment as Group-D. Hence, he filed this O.A to quash Annexure A-8, to declare that he is entitled to be considered for regularisation in the non test category of Group- D vacancy of 1997 or in any Group-D vacancy that arose thereafter.

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3. The respondents in their reply contended that the O.A is not maintainable. They stated that the applicant was initially engaged to work as Scavenger for 4 hours w.e.f. 1.2.1981. In addition, he was given cleaning work at MMS having 3 hours duty w.e.f. 10.1.1984, another item of work of Kollam Cantonment Post Office and office of ASP(S) Sub division having $1\frac{1}{2}$ hours of work were added w.e.f. 26.3.1989 and they admitted that his total working hours comes to $8\frac{1}{2}$ hours w.e.f that date. They disputed the averment of the applicant that the post of Sweeper at Kollam H.O. was vacant from 1997 onwards and stated that it was filled up on 23.4.2001 by appointing one Shri Micheal provisionally by memo dated 18.4.2001 of the SSP, Kollam which he held upto 3.1.2004 after which he rejoined his original post of GDS (Annexure R-1 & R-2). They stated that the applicant was appointed in the cadre of Group-D Kollam Division while implementing the common order of the Tribunal in O.A. 312/2008 and 36 others, even relaxing the educational qualifications prescribed for the post of Group-D(R-3). He was first appointed notionally as Group-D w.e.f. 1.10.2008 and subsequently preponed it from May 1994. Consequently, he was paid an amount of Rs. 3,82,312/- due to him towards arrears of pay and allowances for the period from 5/1994 to 12/2009. They stated that all the eligible benefits have been granted to the applicant and the applicant has no sustainable grounds to claim appointment from 1997 onwards. None of his juniors have been appointed ahead of him.

4. The applicant filed rejoinder reiterating his contention that he is entitled to be promoted w.e.f. 1997 or at least from 2002. He stated that the statement of the respondents in the reply is contrary to their statement in O.A. 977/2003 (A-13).


5. Heard the parties and perused the documents produced before me.

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6. The question that comes up for consideration in this O.A is whether the applicant is entitled to be considered for regularisation in the non test category of Group-D vacancy of 1997 or not. In O.A. 390/2009 filed by the applicant the Tribunal directed the respondents to consider the representation of the applicant keeping in view the fact that he has been granted temporary status w.e.f. 1990. It is an admitted fact that the applicant was paid Rs. 3,82,312/- being the arrears of wages which arose out of conferring of Temporary Status from 5/1994. The issue that remains to be answered is when the vacancy of Group-D is available for regularisation of the applicant. As per the Recruitment Rules of Group-D staff, the Gramin Dak Sevaks are entitled to 75% of vacancies and 25% goes to full time Casual Labourers and those Casual Labourers who are granted temporary status. Due to the limited number of vacancies arising every year and a large number GDS, there is a long waiting period before Casual Labourers can be appointed as Group-D. In this case, from the averments of the respondents in the reply statement, it is clear that the applicant does not possess the requisite qualification to be appointed as a Group-D and that unless the same has been relaxed he cannot be appointed. Moreover, the vacancy which is alleged to have arisen from 1997 was filled up by Shri Michael on 23.4.2001. However, since his junior Smt Padma has been appointed w.e.f. 1.3.2007, the applicant was granted the appointment by ante dating the appointment to 19.5.2006.

7. In the circumstances, I do not find any infirmity with the action of the respondents. The OA is dismissed. No costs.

(Dated the 15th March, 2011)


K. NOORJEHAN
ADMINISTRATIVE MEMBER