

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 121/90

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DATE OF DECISION 7.8.1991

P Gouri

Applicant (s)

Mr AK Bashir

Advocate for the Applicant (s)

Versus

Superintendent of Post Offices Respondent (s)
Tellicherry Division, Tellicherry
and others.

Mr VV Sidharthan, ACGSC
Mr Alexander Thomas

Advocate for the Respondent (s) 1-3
Advocate for Respondents-4.

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Shri N Dharmadan, J.M

The applicant is aggrieved by the Annexure-2 order passed by the Superintendent of Post Offices, Tellicherry Division (Respondent-1) terminating her provisional appointment only to accommodate Respondent-4, who according to the respondents, had been selected to the post of EDSPM, Moozhikkara Sub Post Office.

2 The facts are as follows:-

The applicant was provisionally appointed as EDSPM, Moozhikkara Sub Post Office, within the jurisdiction of Tellicherry Sub Division as per order dated 11.7.87, in the vacancy of one Shri Padmanabhan against whom disciplinary proceedings were initiated. In the meantime the Respondent-1

has taken steps for regular selection and appointment to the post of EDSPM, Moozhikkara by inviting names from Employment Exchange without considering claims of the applicant. Hence, he filed OAK 346/88 which was disposed of by Annexure-1 judgment directing the respondents to consider the claims of the applicant also. Accordingly, a selection was conducted by the Respondent-1 considering the candidates who had already been interviewed on 3.10.88. In the regular selection pursuant to the direction of this Tribunal, the Respondent-4 was found to be better qualified candidate and he was selected. Consequently, Annexure-2 order was passed terminating the appointment of the applicant. The applicant has challenged his termination and the appointment of Respondent-4 by filing this application.

He also sought for a direction to reinstate the applicant as EDSPM, Moozhikkara Sub Post Office.

3 The Respondent-1 who conducted the regular selection filed a reply statement in which he has stated that the applicant was not selected in the regular selection process merely because she is not a permanent resident within the postal jurisdiction of Moozhikkara, Sub Post Office. According to him on enquiry, it is found that the applicant is a permanent resident at Alukode near Cannanore in her husband's residence. It is further submitted that the applicant ^{had} has given a

written declaration that she would not claim ⁴ for a regular appointment as EDSPM, Moozhikkara for, she is not a permanent resident of Moozhikkara locality.

4 We have heard the arguments and directed the learned counsel appearing on behalf of Respondent-1 to produce files pertaining to the selection and interview held on 3.10.88 which has produced for our perusal when the case came up for final hearing to-day. On going through the files and the minutes of the interview held on 3.10.88, we have seen the following statement in respect of the applicant at page 65.

"7. P Gouri

OC, DOB. 7.8.56, SSLC passed. 232 Marks. Passed PDC also in 3rd Class - Income from own land of extent 20 Cents is Rs 1000/- as certified by Tahsildar, TLY. Document No.237/1980 shown - Resides in delivery area of Moozhikkara P.O, with aunt, Smt PM Lakshmi. Included in Ration Card No.049902(297) w.e.f. 14.6.88.

Sd/- Gouri P
3.10.88 "

5 It is surprising that a different stand is taken in the reply statement ^{filed} by the respondent. The clear statement in the files that the applicant is residing within the Moozhikkara Post Office jurisdiction cannot be ignored and she cannot be denied regular appointment on that ground - because from this recordss it is clear that at the time when the applicant was interviewed originally, she was fully qualified regarding residential requirements and Postal Department has accepted the position that the applicant is a permanent

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resident within the jurisdiction of Moozhikkara Post Office. This being the position, the statement in the counter affidavit cannot be accepted. The ^{law by} respondents ~~are~~ not produced any other document to show that the applicant is disqualified on account of the lack of residential qualifications. On the other ^{records by} hand the applicant has produced ^{to substantiate her} case that she is a permanent resident within the postal jurisdiction of Moozhikkara Sub Post Office.

6. We are not giving ^{any} importance to the declaration produced by the Respondent-1 alongwith the counter affidavit, alleged to have been given by the applicant while she was working as a provisional hand in this very same Post Office. It is rather unnecessary to take such a declaration by the respondents from a provisional hand for deciding the question as to the applicant's residential jurisdiction which is the matter to be considered in the regular selection process based on documentary or other evidence or by conducting detailed enquiry in this behalf. In the view that we are taking in the case, it is unnecessary for us to consider the issue any further.

7. Having considered the matter in detail we are of the view that the selection already made by Respondent-1 in which the 4th Respondent has been selected cannot be upheld because according to the

respondents the applicant is disqualified only on account of her residential qualification as stated in the reply statement. This is denied by the applicant and the applicant's case is found to be correct in the light of the statement in the files. We, therefore, set aside Annexure-2 order and the appointment of Respondent-4 as EDSPM, Moozhikkara Sub Post Office and direct Respondent-1 to conduct a fresh selection in which the claims of both the applicant and Respondent-4 should be considered. This shall be done within a period of ^{two to four} months from the date of receipt of a copy of this judgment. Till a final selection and appointment is made, the Respondent-4 will be allowed to continue on a provisional basis but we make it clear that in case the Respondent-4 is not selected, she should yield place to applicant.

8 The application is accordingly disposed of as above and there will be no order as to costs.

N Dhamdan 7.8.91. NV Krishnan
(N Dhamdan) (NV Krishnan)
Judicial Member Administrative Member

7-8-1991