

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 127
T.A. No.

1990

DATE OF DECISION 24.7.90

K. Rajamma _____ Applicant (s)

Mrs. N. Govindan Nair _____ Advocate for the Applicant (s)

UOI rep. by DG, Posts and others _____ Respondent (s)

TPM Ibrahim Khan R-1 -3 _____ Advocate for the Respondent (s)
S. Abdul Razzaq R-4

CORAM:

The Hon'ble Mr. N. V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant approached this Tribunal challenging the appointment of the fourth respondent mainly on the ground that the applicant's case has not been considered fully in accordance with the rules while making regular selection and appointment to the post of Extra Departmental Sub Post Master, Neeleswaram.

2. The case of the applicant is that she passed SSIC examination and she registered her name with the Employment Exchange, Quilon. She is fully qualified for the regular appointment as EDSPM since she satisfied all the requirements for a regular selection. Without considering the applicant's

claim the third respondent selected and appointed the fourth respondent.

3. The respondents 1 to 3 and the fourth respondent have filed separate counter affidavits and contended that the fourth respondent was considered because of the direction of this Tribunal in O.A. 527/86 along with others. She was selected because she is residing within the delivery jurisdiction of the Neeleswaram Sub Post Office while the applicant is residing 2.5 KMs away from the delivery jurisdiction of the post office. There is no merits in the application and she is not entitled to any reliefs.

4. The main controversy in this case is with regard to the residential qualification of the applicant and the selected candidate viz. the fourth respondent. It is submitted that the third respondent conducted the selection without considering the respective claims of the applicant and the fourth respondent regarding the residential qualification as per the relevant orders and decisions of the Tribunal. The fourth respondent contended before us that the applicant does not satisfy the requirement for selection. She is neither residing within the delivery jurisdiction of this post office nor does she reside within the village in which the sub post office is situated. But on the other hand, the applicant stated in the rejoinder filed in this case that even though

she is not a resident within the delivery jurisdiction of the post office, she is residing within the village and hence she is eligible for appointment and she satisfies all the requirements for a regular selection as EDSPM.

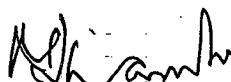
5. This Tribunal has held in a number of cases that the residential qualification should be taken into consideration with reference to the village in question and not the delivery jurisdiction of the concerned post office. This aspect has been over-looked by the third respondent while making the regular selection in this case and it caused injustice to the applicant. Under these circumstances we feel that this is a matter which requires reconsideration by the third respondent.

6. Having regard to the facts and circumstances, we are of the view that the appointment of the fourth respondent is not in accordance with law and it is liable to be set aside. Accordingly, we do so. Even though we are setting aside the appointment of the fourth respondent, the interest of justice demands a fresh selection is to be conducted by the third respondent for making a regular appointment to the Sub Post Office at Neeleswaram, considering the qualification of the applicant and the fourth respondent particularly in respect of their residential qualification in the light of R-3(a) and the decisions rendered by this Tribunal.

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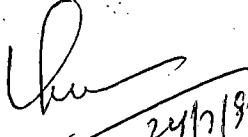
7. In the result we allow the application and direct the third respondent to conduct a fresh selection as indicated above. He shall comply with this direction within a period of two months from today. Till a regular selection is made, the fourth respondent who is presently holding the post will continue as Sub Post Master, Neeleswaram, on a provisional basis. If she is not selected in the aforesaid selection, she may yield place to the applicant without raising any objection.

8. There will be no order as to costs.


(N. Dharmadan)

Judicial Member

24.7.90


(N. V. Krishnan)

Administrative Member

kmn

NVK ND

RA 101/90 in OA 127/90, MP 722/90, MP 721/90 and MP 778/90
in OA 127/90

18-10-90

Shri B.V. Radhakrishnan for Review applicant
Shri TPM Ibrahim Khan for review respondent.

Heard counsel on both sides

The clarification sought in MP 778/90 filed by Shri TPM Ibrahim Khan (for respondent) is in respect of statement in para 7 of the judgment in OA 127/90 dated 24.7.90, wherein ^{in the earlier paragraph 4} we have made it very clear that ^{and in para 2} fresh selection is to be made considering the qualifications of only the applicant and 4th respondent. ^{Among} With this observation we dismiss MP:778/90.

Order communicated -
on 31/10/90
FILE CLSSED

R.A. 101/90 in the above OA has been heard and orders passed separately.

MP 722/90 for stay, heard and dismissed.

MP 721/90 for condonation of delay, heard and allowed.

18-10-90

R.A. No. 101.98....

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Placed below is a Review Petition filed by

N. Mainali (Applicant)
45th Respondent in OA/TA No. 127/90 seeking a review of the order dated 24-7-90 passed by this Tribunal in the above noted case.

As per Rule 17(ii) and (iii), a review petition shall ordinarily be heard by the same Bench which passed the order, and unless ordered otherwise by the Bench concerned, a review petition shall be disposed of by circulation where the Bench may either dismiss the petition or direct notice to be issued to the opposite party.

The Review petition is therefore, submitted for orders of the Bench consisting of Hon. Shri. N. V. Krishnan Member (A) and Hon. Shri. N. Dharmandram Member (B) which pronounced the order sought to be reviewed.

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Copy of *Barlow v. Mayhew*
referred and passed

