

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 128/90

XX-XX-XX

X100

DATE OF DECISION 9-7-1990

D Premalatha _____ Applicant (s)

Mr PK Mohammed _____ Advocate for the Applicant (s)

Versus

The Director of Postal Services, Calicut & 3 others Respondent (s)

Mr TPM Ibrahimkhan _____ Advocate for the Respondent (s) 1-3

Mr K Ramakumar for respondents-4

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, 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

(Mr SP Mukerji, Vice Chairman)

In this application dated 6.2.1990 the applicant who has been working as Branch Post Master on provisional basis at Dharmathadka Post Office from 2.12.1986 has prayed that she should be appointed to that post on a regular basis in preference to respondent No.4 and the impugned order at Annexure-8 dated 28.11.1989 rejecting her representation should be set aside. The facts of the case lie in a narrow compass and suffice /that under the orders of this Tribunal in O.A.267/89, the applicant was also considered for regular appointment along with other eligible candidate even though the applicant's name had not been sponsored by the Employment

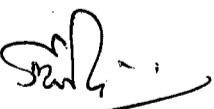
Exchange. It is applicant's misfortune that the applicant even after being considered, was not selected for the post.

2. We have heard the learned counsel for the parties and gone through the documents carefully. The main contention of the learned counsel for the applicant is that since the applicant had put in about 3 years of service on provisional basis, she because of her experience should have been preferred over respondent No.4. However, it is conceded that respondent No.4 obtained more marks in the SSLC than the applicant. The learned counsel for the applicant did not show us any rule or instructions under which an E.D.Agent working only on provisional basis has to be given priority over other eligible candidates inspite of the fact that the marks obtained by such an E.D. Agent are less than those of others. On the other hand, in accordance with the instructions issued by the Post Master General, Kerala Circle at Annexure-R.2(C), the criterion for selection would be a percentage of marks in Matriculation/ SSLC and that 'the candidate who has secured the highest marks will have the best chance of selection'. The learned counsel for the respondents indicated that before appointing a selected candidate he is given training which makes up any lack of experience. In any case, due process of selection cannot be ignored or compromised merely because a provisionally appointed E.D.Agent has been working at the post for some time.

3. The learned counsel for the applicant did not urge any ground of malafides or perverse finding in the selection process.

4. In the circumstances, we do not see any force in the application but in consideration of the fact that the applicant had been working as E.O.Agent for about 3 years and in the light of the recent rulings of the Supreme Court about absorption of casual employees, we direct respondents 1-3 that efforts should be made by them to absorb the applicant and utilise her experience in a suitable post of E.O.Agent. Since the applicant had worked for about 3 years from 12.12.1986 to 11.10.1989, she should be considered for alternative employment as E.O.Agent as provided for in DG P&T's letter No.43-4/77-Pen., dated 23.2.1979 and repeated in DG P&T's letter No.43-4/77-Pen dated 18.5.1979 (page 63 of Swamy's Compilation of Service Rules of E.O.Staff in Postal Department, 1987 Edition). Even if the applicant is technically not entitled for consideration for alternative employment as she had not completed exactly 3 years in her service which falls short of this period by a few weeks, we command alternative employment because of the fact of her having been thrown out of service without complying with Chapter-V-A of the Industrial Disputes Act. Accordingly, we close this application with the direction as indicated above.


(AV HARIDASAN)
JUDICIAL MEMBER


(SP MUKERJI)
VICE CHAIRMAN

9-7-1990

trs