

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.134/04

Monday this the 23rd day of February 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

Padmakumar.P.S.,
S/o.Sadasivasan Pillai,
Grameen Dak Sevak Branch Post Master,
(South Division) Parantode P.O.,
Aryanad, Thiruvananthapuram.

Applicant

(By Advocate Mr.T.A.Shaji)

Versus

1. Superintendent of Post Offices,
Thiruvananthapuram South Division,
Thiruvananthapuram - 695 014.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram - 695 033.
3. M.S.Sarasakumar,
Grameen Dak Sevak Mail Deliver,
Kachami, Thiruvananthapuram Dist.
4. S.Sreekantan Nair,
Grameen Dak Sevak Mail Deliver,
Ayira, Thiruvananthapuram Dist.
5. S.Venugopal,
Grameen Dak Sevak Mail Carrier,
Machel, Thiruvananthapuram Dist.
6. G.S.Sudheendra Prasad,
Grameen Dak Sevak Mail Deliver,
Vattavila, Thiruvananthapuram Dist.
7. G.Surendren,
Grameen Dak Sevak Mail Deliver,
Meenankal, Thiruvananthapuram Dist.

(By Advocate Mr.C.Rajendran, SCGSC)

This application having been heard on 23rd February 2004 the Tribunal on the same day delivered the following :

ORDER

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant is a Grameen Dak Sevak Branch Post Master (GDS BPM in short). He joined service as such on 3.11.1981. A notification was issued on 16.9.2002 notifying four UR

(Unreserved) and one ST (Schedule Tribe) vacancies total amounting to five in the Grade of Postman. It was mentioned that all these vacancies were available for departmental candidates and there was no vacancy for outsiders (GDS). However since the unfilled vacancies in the departmental quota were to be filled by outsiders on merit, the applicant as also the respondents 4 to 7 and others, who are GDS, participated in the selection. None of the departmental candidates qualified. However the applicant found Annexure A-4 order dated 29.12.2003 issued, in which respondents 3 to 7 were selected for appointment. Alleging that the respondents could not have made any appointment on the basis of the selection as none qualified and the respondents committed mistake in not filling up the unfilled departmental vacancies by the GDS in accordance with the quota of 50% by seniority and 50% by merit, the impugned order is liable to be set aside.

2. The applicant therefore seeks to set aside the impugned order and a direction to the 1st respondent to consider the applicant for appointment as Postman in accordance with his seniority as a GDSMD as against the vacancies earmarked for them in accordance with rules and to notify all the remaining vacancies of Postman now filled up by appointing respondents 3 to 7 and fill up those vacancies by conducting fresh examination forthwith.

3. We have perused the application and have heard Shri.T.A.Shaji, learned counsel of the applicant and Shri.C.Rajendran,SCGSC for the respondents. Learned counsel of the applicant first submitted that as none of the departmental candidates, for whom selection was made, qualified, the

respondents could not have filled any of the vacancies on the basis of selection and should have held a fresh selection. She further argued that even if appointment could be made on the basis of the selection held, 50% of the post should have been filled on the basis of seniority and 50% on the basis of selection on merit. Learned counsel for the respondents submitted that the unfilled vacancies in the departmental quota is to be filled according to the Recruitment Rules by making appointment of the GDS on the basis of the merit in the departmental examination and what has been done in this case is only that and therefore the action does not call for any interference.

4. On a careful scrutiny of the Recruitment Rules as also the procedures adopted as revealed from the application and the submissions of the learned counsel we do not find any reason for admission of this application and further deliberation. The argument of the applicant that as no departmental candidate qualified no appointment could have been made on the basis of the selection and for filling up the vacancies by GDS a fresh selection should have been made is absolutely untenable. From Annexure A-1 it is evident that even though there was no vacancy for outsiders the notification was circulated among GDS. It is also an admitted case of the applicant that he as also respondents 4 to 7 and other GDS took part in the examination. As stated by the applicant in Paragraph 4-3 of the application if the vacancies earmarked for departmental employees remained unfilled that could be added to the GDS merit quota. It is because of this stipulation in the notification which is in confirmity with the relevant Recruitment Rules that the applicant



as also respondents 4 to 11 applied and participated in the examination although there was no notified vacancies in the quota for GDS. Therefore the argument that appointment on the basis of that selection could not have been validly made is unsustainable. Further as the unfilled departmental quota is to be added to the merit quota if GDS alone and not to be bifurcated into two for seniority and merit the argument that 50% should have been filled considering GDS on seniority is also baseless and untenable.

5. In the light of what is stated above the application is rejected under Section 19(3) of the Administrative Tribunals Act as the application does not disclose any legitimate cause of action.

(Dated the 23rd day of February 2004)

12-6-20
H.P.DAS
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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