

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.11/2013

&

Original Application No.138/2013

Friday..... this the ..14th..... day of August 2015

C O R A M :

HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

O.A.No.11/2013

Nimisha.R.,
D/o.Rajagopal,
Residing at Devaswam Thundiparambil,
Gopala Prabhu Road, Kochi – 682 035.Applicant

(By Advocate Mr.P.A.Kumaran)

V e r s u s

1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications, Department of Posts,
New Delhi – 110 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
3. Postmaster General,
Central Region, Kochi – 18.
4. Senior Superintendent of Posts,
Ernakulam Division, Kochi – 11.
5. Assistant Superintendent of Post Offices,
Ernakulam Sub Division, Cochin – 682 011.
6. Anuroopa.K.V.,
Gramin Dak Sevak,
Cheranellore Post Office,
Cheranellore – 682 034.Respondents

(By Advocates Mr.N.Anilkumar,Sr.PCGC [R1-5] & Mr.C.K.Pavithran [R6])

O.A.No.138/2013

Anuroopa K.V.,
W/o. Santhosh B.R.,
GDS MD, Cheranallure.
Bagavathiparambile House, Kulayattikara P.O.,
Keechery, Ernakulam – 682 315.

...Applicant

(By Advocate Mr.C.K.Pavithran)

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1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications, Department of Posts,
New Delhi – 110 001.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram – 695 033.
3. Postmaster General,
Central Region, Kochi – 682 018.
4. Senior Superintendent of Posts,
Ernakulam Division, Kochi – 682 011.
5. Assistant Superintendent of Post Offices,
Ernakulam Sub Division, Cochin – 682 011. ...Respondents

(By Advocate Mr.N.Anilkumar,Sr.PCGC)

These applications having been heard on 28th July 2015 this Tribunal
on 14th August 2015 delivered the following :

O R D E R

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

As the matter involved in the two cases is one and the same, both the
O.As are disposed of by this common order.

2. The brief facts of the applicant in O.A.No.11/2013 are that she is aggrieved by appointment of the 6th respondent (applicant in O.A.No.138/2013) as Gramin Dak Sevak Mail Deliverer (hereinafter

referred to as GDSMD), Cheranellore Post Office in preference to her without regard to the higher marks scored by her in the SSLC examination.

The applicant is a matriculate and has scored 376 marks out of 600 in her SSLC examination. According to the instructions governing recruitment for Gramin Dak Sevak and Annexure A-2 the requisite qualification for appointment to the post of GDSMD is a pass in VIII Standard with preference given to candidate who has passed SSLC or equivalent examination. Apart from the essential educational qualification, it is also stipulated that the candidate should know cycling. As the applicant satisfies all the requirements she was called for appearing in the interview on 29.7.2011 pursuant to Annexure A-2. After the interview she appeared in the cycling test. The cycle provided for test was a men's bicycle with a crossbar. The applicant mounted the bicycle when she was called. As soon as she climbed the cycle she was told by the Assistant Superintendent of Post Office that it was not necessary to ride the cycle as the selection was to be made based on the merit in the SSLC examination. So the applicant did not ride the cycle as per the directions of the Assistant Superintendent of Post Offices. This was witnessed by all the candidates who were present for the selection. Subsequent to the selection process, the 6th respondent was appointed as GDSMD, Cheranellore. Applicant was informed that she was not appointed as she had not passed the cycling test. Reliefs sought by the applicant are :

1. To call for the records leading to the appointment of the 6th respondent as Gramin Dak Sevak Mail Deliverer, Cheranellore and quash the same.

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2. To declare that the applicant is entitled to be appointed as GDSMD, Cheranellore in preference to the 6th respondent and to direct the respondents to consider the applicant for appointment as GDSMD, Cheranellore after conducting a cycling test for the applicant in a ladies' bicycle.

3. Grant such other reliefs as may be prayed for and the court may deem fit to grant and

4. Grant the costs of this Original Application.

3. The brief facts of the case as stated by the applicant in O.A.No.138/2013 are that as per notification dated 3.6.2011 the applicant has also applied to the post of GDS MD at Cheranelloor Post Office. She fulfilled all the requirements prescribed under the notification and accordingly was called for an interview. On verification of her certificate she was asked to ride a man's cycle with cross bar. The applicant and a few others passed this cycling test. On receipt of a provisional appointment letter the applicant appeared before the 5th respondent and submitted all the necessary documents. Thereafter the applicant was appointed as GDS MD at Cheranelloor Post Office as per appointment order dated 8.8.2011 and joined as such on 9.8.2011. Thereafter on work arrangement basis she worked in different post offices. While so, on 1.2.2013 she was served with a notice of termination by the 5th respondent. No reason whatsoever was stated in the notice. As per the GDS (Conduct and Service) Rules, termination can be done by the appointing authority for unsatisfactory work or any administrative ground unconnected with conduct. Applicant states that she has been working exceptionally well for the last 18 months in the post. Reliefs sought by the applicant are :

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1. Call for the records leading to the impugned order and quash the impugned order.
2. Declare that the notice dated 1.2.2013 issued by the 5th respondent is arbitrary and illegal and the applicant is eligible to continue as GDS MD.
3. Issue such other directions as this Hon'ble Tribunal deems fit to grant in the facts and circumstances of the case.
4. The respondents in their reply state that the applicants are among the candidates who responded to the notification for the post of GDSMD, Cheranalloor. The applicant in O.A.No.11/2013 finding that, she was marked as having failed in the cycling test, lodged a complaint before the 3rd respondent against the selection process to the post of GDSMD, Cheranalloor alleging that she was dissuaded from participating in the cycling test by the 5th respondent. The complaint was transferred to the 4th respondent for conducting a review of selection process. The administrative review conducted by the 4th respondent revealed that the 5th respondent committed an error in calculating the percentage of marks which is the first and foremost criteria for proceeding with the selection to the notified post and as such, the selection and appointment against the notified post became null and void. The 5th respondent erroneously processed the marks of one of the candidates by name, Sachin Viswanath, who produced the SSLC certificate containing "grades" only. The actual percentage of marks of the said candidate was 72.66% whereas it was taken as 93.4% by the 5th respondent. Also there were some corrections in the result of the cycling test conducted. As such, the report of review was forwarded to the 3rd respondent's office and it was directed to take action to cancel the

recruitment made to the post of GDSMD Cheranalloor. Accordingly, Annexure A-5 memo was served on the selected candidate, the applicant in O.A.No.138/2013 by the 5th respondent.

5. In the additional reply statement filed by the respondents it is stated that the selection to the post of GDSMD Cheranalloor is ordered to be cancelled and further to re-notify the said post. Hence neither the applicant nor the 6th respondent (applicant in O.A.No.138/2013) continuing in the post are eligible for being considered to the post, as the competent authority has ordered to cancel the selection procedure and re-notify the post for fresh selection. The 6th respondent is continuing in the post on the strength of orders of this Tribunal in O.A.No.138/2013. In the second additional reply statement the respondents state that there are no efforts on the part of the respondents to mislead the Hon'ble Court. As the appointing authority conducted the verification of mark lists for two posts simultaneously, the details of recruitment to the post of GDSSV Hindi Prachar Sabha not appealed in these O.As was also mentioned in the reply statement. Moreover, the person by name Shri.Sachin Viswanath had sent his application for consideration to both the posts.

6. Heard the counsel for the applicant and respondents and considered the written submissions made. The respondents have admitted that the recruitment process challenged in the present O.As is vitiated and in view of the irregularity in the selection process the competent authority desires to

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cancel the recruitment and re-notify the post for a fresh selection. This is agreed to in view of the facts stated thereon. The applicants in these O.As are at liberty to apply and participate in the fresh selection process by applying afresh for the posts so notified. The stay in O.A.No.138/2013 is vacated and the respondents are at liberty to re-notify the posts and proceed with the recruitment process in the notified manner. The officer who was associated with the recruitment process which was vitiated be disassociated with the fresh process of recruitment in order to give the applicants a fair chance of participation.

7. The O.As are accordingly dismissed. No order as to costs.

(Dated this the 14th day of August 2015)

P.GOPINATH
ADMINISTRATIVE MEMBER

JUSTICE N.K.BALAKRISHNAN
JUDICIAL MEMBER

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