

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
~~XIXXXXX~~

147

199 0

DATE OF DECISION 30.4.1990

G. Gangadharan

Applicant (s)

M/s VM Kurian & AV Thomas Advocate for the Applicant (s)

Versus

Superintendent of Post Offices, Respondent (s)
Kalleppay Division, Alleppey & Another

Mr. TPM Ibrahim Khan, ACGSC (R1) Advocate for the Respondent (s)
Mr. V. N. Swaminathan (for R. 2)

CORAM:

The Hon'ble Mr. S. P. Mukerji - Vice Chairman

and

The Hon'ble Mr. A. V. 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. A. V. Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant has prayed that the order of the first respondent appointing the second respondent as Extra Departmental Branch Post Master, Karikad may be set aside, and that the first respondent may be directed to appoint the applicant as EDBPM, Karikad. The facts can be briefly stated as follows:

2. The applicant who has passed the SSLC Examination and has registered his name with the Employment Exchange,

Shertallai was sponsored by that Employment Exchange as a candidate for the post of EDBPM, Karikad. As directed by the Employment Officer, the applicant submitted a formal application offering himself as a candidate. But seeing that the first respondent had again notified the Vacancy in the notice board of the Karikad Post Office, inviting applications for the post, he submitted a fresh application. The applicant was not called for an interview. Therefore, he sent Annexure-II representation to the Superintendent of Post Offices, Alleppey Sub Division requesting him to inform the applicant as to why he was not called for an interview. To this representation, the applicant received the Annexure-IV reply stating that his candidature was not considered for the post of EDBPM, Karikad as he was not a permanent resident within the delivery area of Karikad Post Office, but was a resident within the delivery area of Varanam Post Office for the last three years. Coming to know that the second respondent has been appointed to the post of EDBPM, Karikad, the applicant has filed this application praying that the appointment of the second respondent may be cancelled and the first respondent may be directed to appoint him in that post. It has been averred in the application that the applicant is a permanent resident within the delivery area of Karikad Post Office, that this would

be evident from the certificate issued by the Village Officer dated 26.9.1989 (Annexure-V) and the ration card No.ALY 138061 (Annexure-VII). The applicant has prayed that, as the applicant had been discriminated against without rejecting him at threshold/Being considered for the selection to the post of EDBPM, Karikad, he is entitled to have the order appointing the second respondent cancelled and to be appointed in that post.

3. The first respondent, the Superintendent of Post Offices, Alleppey, and the second respondent, the person who has been selected and appointed as EDBPM, Karikad have filed separate reply statements contesting the application. In the reply statement filed by the first respondent it has been contended that the applicant not being a resident of the delivery jurisdiction of the Karikad Post Office and not being possessed of an independent means of income is not entitled to be considered for appointment as EDBPM, Karikad. It has also been averred that, since the applicant has obtained only 210 marks while the second respondent has obtained 330 marks in the SSLC Examination, the second respondent being a suitable candidate, the applicant is not entitled to question the selection and appointment of the second respondent. The second respondent has also in the reply statement filed by her contended that the applicant is not a resident of the delivery area of the Karikad Post

Office and in order to substantiate this contention she had produced a copy of the voters list (Annexure-II).

4. We have heard the arguments of the learned counsel on either side and have also carefully perused the documents produced.

5. The Annexure-V certificate issued by the Village Officer, Thaneermukkom shows that the applicant is a resident of Thaneermukkom Panchayath in the boundary of the Karikad Post Office. Annexure-VII, extract from the ration card shows that the applicant's name has been included in that ration card bearing House No.313 in Thaneermukkom Panchayath, Ward No.6. Annexure-R2 voters list would show that the applicant was registered as the voter in the Mararikulam Assembly Constituency, and that he was shown as a resident of House No.252 in Ward No. 13 of Thaneermukkom Panchayath. If this is true, the applicant would not be a resident of the House No.313 in Ward No.6 as is seen from the ration card, Annexure-VII. But the applicant has produced Annexure-X, an extract from the voters list of the Mararikulam Assembly Constituency in which he is shown as a resident of House No.313 in Ward No.6. So, there is total confusion as to where exactly the applicant had been permanently residing. The documents produced before us show that on the ground the rejection of the candidature of the applicant that he was not a resident within the delivery area of

Karikad Branch Post Office cannot be said to be proper. But, anyway it has come out in the pleadings, that the second respondent has got more marks in the SSLC Examination than the applicant. So, even if we direct the respondents to re-conduct the selection after considering the applicant also, the applicant would not be benefited because according to the instructions on the subject as between two candidates whose qualification is a pass in the SSLC Examination, the person with higher marks will have a better chance to be selected. In that view of the matter, the selection of the second respondent on an assessment of the merits of the applicant viz-a-viz, the second respondent cannot be faulted. So giving a direction to the first respondent to consider the case of the applicant also and to re-conduct the selection will be a vain exercise.

6. In the conspectus of facts and circumstances, we dismiss the application with no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


30.4.91
(S.P. MUKERJI)
VICE CHAIRMAN

30.4.1991