

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

TUESDAY, THE 13TH DAY OF JULY, 1999.

O.A. 165/99

C O R A M:

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

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

S. Girija,
W/o Somarajan
Extra Departmental Packer,
Kuttichal Sub Office,
Nedumangad,
Thiruvananthapuram.

..Applicant

By Advocate Mr. Vellayani Sundara Raju

Vs.

1. Union of India represented by the Secretary,
Ministry of Communications,
Department of Posts,
New Delhi.
2. The Chief Post Master General,
Kerala Circle,
Thiruvananthapuram.
3. The Superintendent of Post Offices,
Trivandrum South Division,
Trivandrum.
4. The Sub Divisional Inspector of Post Offices,
Nedumangad Sub Division,
Nedumangad.
5. G. Madhusoodhanan Nair
Extra Departmental Agent,
Changa Post Office.
6. Appukuttan Nair,
Post Master,
Nedumangad Post Office,
Nedumangad.

..Respondents

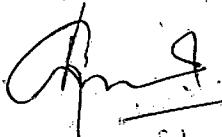
By Advocate Ms. P. Vani, ACGSC for R 1 to 4

The application having been heard on 30.6.99, the Tribunal delivered the following on 13.7.99.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who is working as Extra Departmental Packer, Kuttichal Post Office and who had approached this Tribunal through O.A. 1391/93 decided by this Tribunal by its



order dated 25.3.94, had filed this Original Application seeking the following reliefs under para 8 of the O.A:

"(1) To direct respondents 2 to 4 to grant seniority with retrospective effect and with all consequential benefits from 18.5.90 by replacing the 5th respondent in tune with Annexure A1 order of this Tribunal.

2) To issue necessary order of direction to respondents 2 to 4 declaring that the non-removal of the 5th respondent from service as per Annexure A1 is highly illegal and untenable, and the subsequent promotion granted to him also is against all rules since the 5th respondent was appointed against a Scheduled Tribevacancy, which was declared as illegal and incorrect by this Tribunal in Annexure A1 and in that place the applicant was directed to be appointed.

3) To issue necessary order of direction to respondents 2 to 4 to initiate appropriate disciplinary action against the 6th respondent for his proved act of commission of the offence of rape on the applicant in office hours.

4) To issue necessary order or direction to respondents 2 to 4 to promote the applicant as Sorting Assistant/Postal Assistant in the Scheduled Tribe vacancy available in the Trivandrum South Division, since the applicant is the most eligible candidate belonging to ST community in Trivandrum South Division entitled for that post

5) To issue necessary order or direction to respondents 2 to 4 not to harass the applicant in any manner whatsoever, as they have been doing till date.



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6) To issue necessary order or direction to respondents 2 & 3 to proceed against the 6th respondent on his most treacherous act of rape of the applicant at the place of her (Office) employment.

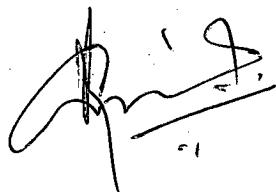
(7) To issue necessary order or direction by declaring that enhancing educational qualification intentionally to the disadvantage of Scheduled Castes/Scheduled Tribes in the category of Sorting Assistant/Postal Assistant is highly illegal and untenable since 90% of candidates of the above categories, under respondents 2 to 4 are SSLC failed persons, but the applicant is a Pre-Degree completed girl.

(8) To grant such other reliefs this Hon'ble Tribunal deem fit in the facts and other circumstances of the case.

(9) To allow costs to these proceedings."

2. When the O.A. came up for hearing on 30.6.99 at the admission stage, Shri Vellayani Sundara Raju, the learned counsel of the applicant stated that the prayers in sub para 8(2), (4) and (5) alone may be considered.

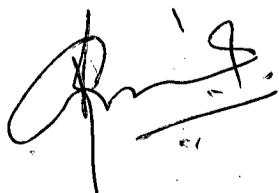
3. The applicant's case is that she was appointed as E.D. Packer at Kuttichal Post Office in pursuance of the order passed by this Tribunal in O.A. 1391/93 on 25.3.94. According to her, respondent No. 5 in whose place she was appointed was directed to be terminated from service as per the judgment of the Tribunal, had been given promotion taking his date of appointment as 18.5.90, the date on which the applicant should have been appointed against the S.T. quota. The grounds on which she has prayed for the reliefs are on the basis of the order of this Tribunal passed on 25.3.94. She has alleged



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malafide action by Respondents 2 to 4 in changing the educational qualifications prescribed for the post of Sorting Assistant/Postal Assistant.

4. A reply statement was filed by the respondents in which it is stated that the applicant was appointed in pursuance of the order of the Tribunal in O.A. 1391/93 as E.D. Packer on 30.6.94 in the Kuttichal post office. As the 5th respondent was working as E.D. Packer from 18.5.90 and by the time the Tribunal passed the order in O.A. 1391/93, he had completed 3 years of service, the 5th respondent was accommodated and given alternative employment at Changa post office where there was a vacancy, according to the instructions No. 13(2) of DG, P & T letter No. 43-4/77 dated 18.5.79. As he had completed more than 5 years in 1997, five years being the minimum service required for an E.D. Agent to take the examination of Postman, he was eligible for taking the same and as the applicant had been appointed only on 13.6.94 as an E.D. Agent, she did not possess the minimum service required and therefore, was not eligible to take the departmental Examination for Postman. As regards the educational qualification for E.D. Agents to appear against Direct Recruitment quota of Postal Assistant/Sorting Assistant, it was stated that the same were 10+2 or 12th class which was the minimum qualification for appearing in the examination. These were effective from 17.10.92. Further, it was stated that possession of minimum qualification did not make an E.D. Agent eligible to take the clerical test. It also depended on the possession of the required percentage of marks in the qualifying examination. They annexed copies of letters No.60-52/90-SPB-I dated 24.9.92 and 22.4.93 as Annexures R-3(c) and R-3(d) in support. Further, as the applicant was



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not a lower grade departmental official and was only an E.D. Agent, she had to satisfy the condition laid down in the relevant rules for appearing in the clerical grade examination.

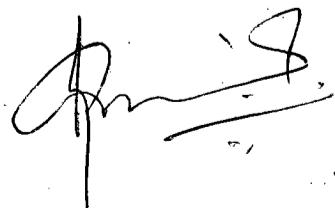
5. As regards the relief sought for removal of the 5th respondent, it was submitted by the respondents that as there were no direction from the Tribunal that the 5th respondent should be removed, he had not been removed.

6. A rejoinder was filed by the applicant.

7. When the case came up for admission on 30.6.99, we heard learned counsel of the applicant at length. The main plea was that the applicant will not get justice from the respondents. He submitted that the applicant had filed a criminal complaint against the 6th respondent in the Police Station and the Department had not taken any action against the 6th respondent except transferring him to a different place and that the 5th respondent was the brother of the 6th respondent and that being annoyed with her action of filing O.A. in the Tribunal, even her application for transfer had not been considered.

8. We have given anxious consideration to the submissions made by the learned counsel of the applicant, rival pleadings as well as the records. The applicant is relying on the order passed by the Tribunal in O.A. 1391/93, the operative portion of which is as follows:

"Considering the contentions and the pleadings, we allow the application and declare that the applicant is entitled to be appointed in the place of the 4th respondent. We direct the respondents 1 to 3 to comply with the direction within a period of two months from the date of receipt of a copy of this order."



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9. This order was passed on 25.3.94. If the respondents had not complied with the order, the applicant should have taken necessary action including recourse to Contempt of Courts Act to redress her grievance if so advised at the appropriate time. This application filed on 8.2.99 is grossly barred by Limitation under Section 21 of the Administrative Tribunals' Act, 1985. Moreover, a reading of the order reproduced above would indicate that nowhere it had been ordered by this Tribunal to terminate the services of the 5th respondent. Nothing had been brought out on record to show that the 5th respondent was given alternate employment in violation of any extant orders. Therefore, the applicant is not entitled for relief under sub para 2. The reliefs sought under sub para 4 & 5 (which were only pressed) are not consequential reliefs to the relief in sub para 2. In accordance with Rule 10 of the Central Administrative Tribunals' Procedural Rules, plural remedies cannot be sought for in the same O.A. except consequential ones. Further, from the reply statement of the respondents it is seen that the applicant does not possess the qualifications prescribed for the post of Postal Assistant/Sorting Assistant. Moreover, no specific order or direction had been impugned in the relief sought under sub para 4. Therefore, the applicant is not entitled for the reliefs sought under sub para 4. Relief under sub para 5 is a general one.

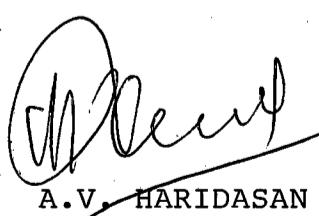
10. In view of the foregoing, we find no merit in this Original Application and accordingly it is dismissed at the admission stage. There shall be no order as to costs.

Dated the 13th July, 1999.



G. RAMAKRISHNAN

ADMINISTRATIVE MEMBER



A.V. HARIDASAN

VICE CHAIRMAN

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List of Annexures referred to in this Order:

1. Annexure A1 true copy of order in O.A. 1391/93 dated 25.3.94
Annexure R-3(c) True copy of letter No.60-52/90-SPB-I dt. 24.9.92
Annexure R-3(d) True copy of letter No.60-52/90-SPB-I dt. 22.4.93