

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 166/97

MONDAY, THIS THE 13TH DAY OF JULY, 1998.

C O R A M:

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR. A. M. SIVADAS, JUDICIAL MEMBER

Thomas Abraham
Extra Departmental Delivery Agent,
Aruplachi,
Punalur. ..Applicant

By Advocate Mr. Sesidharan Chempazhanthiyil

Vs.

1. Sub Divisional Inspector,
Department of Posts,
Punalur.

2. Senior Superintendent of Post Offices,
Pathanamthitta.

3. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

4. Shri A. Krishnan,
Extra Departmental Mail Carrier,
Payyanam.

5. P.K. Ramen,
Extra Departmental Mail Carrier,
Madamom, Vadassery Kara,
Now Group-D, Punalur H.O. ..Respondents

By Advocate Mr. George Joseph, ACGSC for R 1-3

The application having been heard on 13.7.98, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant who is an Extra Departmental Delivery Agent, is aggrieved by the denial of promotion to Group-D while his junior one Sri P.K. Ramen has been promoted as seen from the impugned order A3 dated 29.2.96. The applicant has also challenged the selection for the Postman in A4 order dated 17.12.96. The learned counsel for the applicant submits at the time of hearing that he is not pressing the case for promotion to Postman.

2. Respondents submit that applicant belongs to Other Backward Community and that he was considered on 29.6.96 along with one Shri M. Mohamedkhan Sahib who was the seniormost OBC candidate on 29.6.96, but both were not appointed as Group-D on 29.6.96 since they had crossed the maximum age limit of 53 fixed for OBC. The learned counsel for the applicant submits that the age limit has been quashed by the Tribunal in A7 order in O.A. 155/95. We therefore, have to consider the question whether applicant was eligible to be promoted to Group-D on 29.6.96 irrespective of his age on that date. From the seniority list of E.D. Agents of Pathanamthitta Postal Division as on 1.1.91, produced by the respondents, it is seen that the applicant who is at Sl. No. 25, has his date of birth recorded as 2.12.1942 and therefore, his age on 29.6.96 is 54. Since the E.D. Agents retire at the age of 65 and Group-D staff retire at the age of 60, in the absence of any upper age limit, an E.D. Agent will be eligible to be posted as Group-D as long as he has not attained the age of 60. The applicant was therefore, eligible to be considered for promotion to a Group-D post on 29.6.96.

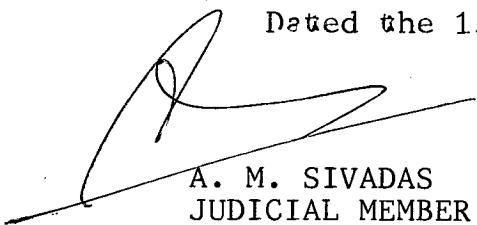
3. Respondents submit that on 29.6.96, there were 8 persons above the applicant. We find that this is not a correct statement. The 8th person (whose name incidentally seems to be changed) is shown in the seniority list as a Scheduled Caste person and the vacancy under consideration is for OBC. That apart, from the seniority list, it is seen that all the other 7 persons listed by the respondents in para 2 of the fourth additional reply statement have attained the age of 60

and therefore, though they are senior to the applicant, they are not eligible to be considered for the post of Group-D. It is, therefore, found that applicant is the seniormost OBC candidate who is eligible for consideration for a Group-D vacancy.

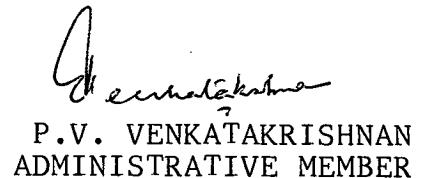
4. The 5th respondent Sri P.K. Ramen is seen to be an OBC from the seniority list. But the impugned order A3 has shown him as a SC. If he is a SC then he was not eligible to be considered for an OBC vacancy. On the other hand, if he is an OBC candidate as seen from the seniority list, he being admittedly junior to the applicant cannot be promoted to a Group-D post superseding the applicant. The impugned order A3 promoting the 5th respondent cannot therefore be sustained. We therefore, quash A3. The second respondent is directed to consider the case of the applicant in the light of the above observations and pass appropriate orders within two months of today. The applicant on promotion to the Group-D post will be eligible for consequential benefits from 29.6.96 including arrears of salary.

There shall be no order as to costs.

Dated the 13th July, 1998.



A. M. SIVADAS
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A3: Order No.B3/Rectt/Gr.D/96 dated 29.2.96 issued by the 2nd respondent.
2. Annexure A4: Letter No.B3/27/96 dated 17.12.96 issued by the 2nd respondent.
3. Annexure A7: Judgement dated 6.3.96 of the Central Administrative Tribunal, Ernakulam Bench.

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