

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 169 of 2001

Wednesday, this the 9th day of October, 2002

CORAM

**HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER**

1. P. Suseelan,
Inspector - Railway Mail,
Officiating Sorting Assistant Superintendent,
Office of the Chief Post Master General,
Kerala Circle, Thiruvananthapuram.Applicant

[By Advocate Mr.N.N.Sugunapalan rep.by Mr.G.Balakrishnan]

Versus

1. The Chief Post Master General,
Kerala Circle, Thiruvananthapuram.
2. Assistant Director (Staff),
Department of Posts, Office of the
Chief Post Master General, Kerala Circle,
Thiruvananthapuram.
3. Sajan David, Assistant Superintendent
Railway Mail Service,
Thiruvalla Railway Mail Service 2/A,
Thiruvalla.
4. Union of India, represented by the
Secretary, Ministry of Communications,
Department of Posts, Sansad Marg,
New Delhi - 110 001.Respondents


[By Advocate Mr. A. Sathianadhan, ACGSC (R1, 2 & 4)]
[By Advocate Mr. P.C. Sebastian (R3)]

The application having been heard on 9-10-2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, who is holding the post of Inspector of Railway Mail Service substantially and officiating as Assistant Superintendent of Railway Mail (ASRM for short), has filed this Original Application challenging Annexure A1 order by which the 3rd respondent was promoted as ASRM and Annexure A3 order by which the applicant's representation (Annexure A2) has been

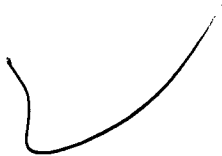


rejected. The case of the applicant is that when the Departmental Promotion Committee (DPC for short) met for making promotion to the post of ASRM on regular basis, instead of considering the two vacancies which arose during 1997 and 1998 separately, they clubbed the two vacancies and filled up one post by appointing the 3rd respondent applying the principle of reservation. If the vacancy yearwise was separately taken and candidates eligible and would come within the zone of consideration were considered, the two posts would have been filled by appointment of unreserved candidates as otherwise, the ceiling on reservation of 50% would be violated. With these allegations, the applicant has filed this Original Application seeking to set aside the impugned orders.

2. The official respondents have sought to justify the impugned action on the ground that when the DPC was held in the year 1999, as there were two vacancies against which promotions are to be made, one was filled by considering a Scheduled Tribe candidate, the 3rd respondent, and other by a General candidate in accordance with the principles of reservation.

3. The 3rd respondent has sought to justify his promotion on the ground that considering the fact that there is no incumbent belonging to Scheduled Tribe community at all in the cadre consisting of 21 posts, his appointment giving him the benefit of reservation as a Scheduled Tribe candidate cannot be faulted.

4. When the Original Application came up for hearing today, none appeared on behalf of the official respondents. On behalf of Shri N.N.Sugunapalan, Shri G.Balakrishnan appeared for the applicant and Shri P.C.Sebastian appeared for the 3rd respondent.




5. It is an undisputed fact that out of 21 posts in the cadre none is occupied by a member of the Scheduled Tribe. Under these circumstances, with the introduction of post-based roster system with effect from 2-7-1997 the appointment of the 3rd respondent against the backlog vacancy in the absence of representation in the cadre of Scheduled Tribe cannot be faulted. We, therefore, do not find any reason for intervention.

6. In the light of what is stated above, we do not find any merit in this Original Application and accordingly it is dismissed leaving the parties to bear their respective costs.

Wednesday, this the 9th day of October, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of Memo No.ST/18-2/97 dated 16.4.99 issued by the 2nd respondent.
2. A-2: True copy of representation dated 9.1.2001 submitted by the applicant before the 2nd respondent.
3. A-3: True copy of communication No.ST/18-2/99 dated 30.1.2001 issued by the 2nd respondent to the applicant.
4. A-4: True copy of order No.14-1/2000-SCT dated 5.10.2000 and No.36012/5/97-Estt.(Res.) Vol.II dated 20.7.2000 issued by the Government of India.

npp
23.10.02