

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 171/90

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~~XXXXXX~~

DATE OF DECISION 19-7-90

M Omanakuttan _____ Applicant (s)

M/s MR Rajendran Nair & PV Asha _____ Advocate for the Applicant (s)

Versus

Union of India rep. by the _____ Respondent (s)
Secretary, Ministry of
Communications, New Delhi & others

Mr TPM Ibrahim Khan _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

Shri N Dharmadan, Judicial Member

The applicant, who is working as EDDA at Eara Post Office has approached this Tribunal attacking inter-alia, Annexure-II, the appointment order of Respondent-3 ~~XXXXXXXXXXXXXX~~ at Neelamperur Post Office as a regular candidate, limited his prayers to relief No.2 & 3 after considerable discussions at the bar. The reliefs are quoted as below:

"

- (ii) To declare that applicant's service are (sic not) liable to be terminated except in accordance with the provision of Chapter V A of ID Act.
- (iii) Direct the respondents to consider the applicant for regular appointment in the category of ED Agent giving due weightage to his past service in the category and preference under Section 25 H of the ID Act."

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2 The short facts for disposal of this case are as follows:-

The applicant is at present working as EDDA at Eara Post Office. While he was working at Neelamperur Post Office the 3rd Respondent was selected and appointed as a regular candidate. Then the applicant filed OA 331/89. It was dismissed as per Annexure-I judgment. But when the applicant was retrenched from service with effect from 17.5.89 pursuant to Annexure-II, he filed Annexure IV representation for absorption in Eara Post Office in the vacancy considering his past service. Accordingly, on a provisional basis he was appointed as EDDA at Eara Post Office from 1.3.90. Before his provisional appointment he was also interviewed in the interview took place on 12.2.90. He approached this Tribunal at the time when steps are being taken for a regular appointment to that post. After admission, we have passed an interim order dated 23.3.90 directing that the applicant's service should not be terminated until further orders of this Tribunal. Though the applicant was also interviewed alongwith others on 12.2.90, the result has not yet been published in view of the orders of this Tribunal. The applicant has a claim that he has got about 4 months service in this post office and the same requires to be considered by the respondents before finalising regular

appointment in Eara Post Office.

3 The respondents 1 & 2 have opposed the claim of the applicant stating that the Industrial Disputes Act, 1947 does not apply to this case. Only the provisions of ED(Agent.) Rules apply to the applicant and they do not provide for giving any preferential treatment to the applicant in the regular selection.

But the respondents 1 & 2 have not made clear in the counter affidavit as to the further steps they had taken in the matter of finalisation of the appointment.

4 As indicated above, though the applicant challenged the appointment of Respondent-3 in OA 331/89

/ the termination of his service from the Neelamperur P.O. in

and the present OA, he does not want to pursue the matter any further. He only wants to protect his claim for appointment in Eara Post Office on a regular basis. Hence, we are considering only his claim

for a regular appointment in Eara Post Office. The

applicant's case that he is entitled to the benefits

under Section 25H of the ID Act and the same should

be considered by giving preference at the time

when finalising the regular selection to the post

of EDDA at Eara Post Office ^{deserves consideration} Though this is opposed

by R1 & 2 in their counter affidavit we are not

inclined to accept the contention of the Respondents 1 & 2

that ID Act would not apply to the case of the

applicant in this case.

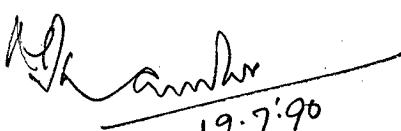
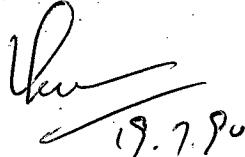
5. We have held in a number of cases and that the persons who are provisionally engaged in the Post Offices are entitled to be considered during the regular selection giving some weightage to their provisional service in the said Post Offices. In the instant case admittedly the applicant was engaged provisionally from 1.3.90 and he is continuing. His ~~past service in the Post Office before~~ ~~considered~~ ~~under Section 25 H of the ID Act.~~ by Respondents 1 & 2. Even though the interview has been held on 12.2.90, the respondents 1 & 2 have not produced any material before us to show that a final decision has been taken by them with regard to the regular appointment to the post. Hence, we are of the view that in the facts and circumstances of this case and in the light of our earlier decisions rendered by us on the question of preferential right of the provisional hands, the ~~applicant's~~ ~~right under the provisions of Section 25 H of the ID Act~~ ~~deserves~~ ~~considered~~ by respondents 1 & 2 before finalising and making regular appointment to the post.

6. In the light of the aforesaid discussion, we that are of the view ~~no other~~ matter deserves consideration in this case and the OA can be disposed of with the direction that R1&2 may finalise the result of the proceedings ~~already initiated by conducting the interview~~ on 12.2.90 after considering the claim of the applicant

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for getting preferential treatment as indicated above on account of his past services in this Post Office.

7 With these observations, the application is disposed of and there will be no order as to costs.

 
19-7-90 19-7-90

(N Dharmadan) (NV Krishnan)
Judicial Member Administrative Member

19-7-90