

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION:

19-10-1989

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman
&
Hon'ble Shri N.Dharmadan, Judicial Member

ORIGINAL APPLICATION NO.174/89

P.V. Mani .. Applicant

Vs.

1. The Sr.Superintendent of Post Offices, Tellicherry.
2. The Sub Divisional Inspector, Postal, Manantoddy.
3. Union of India represented by Secretary to Government, Ministry of Communication, New Delhi.

.. Respondents

Counsel for the applicant .. Mr.MR Rajendran Nair

Counsel for the respondents .. Mr.K.Karthikeya Panicker Addl.Central Govt.Standing Counsel.

O R D E R
(Shri S.P.Mukerji, Vice Chairman)

In this application dated 18.3. 1989 filed under Section 19 of the Administrative Tribunals Act the applicant who has been working as an Extra Departmental Delivery Agent at Edavaka Post Office under the Senior Superintendent of Post Offices, Tellicherry has prayed that Rule 6 of Extra Departmental Agents (Conduct and Service) Rules should be declared as null and void and that the applicant should be declared as a workman

entitled to the benefits of Chapter V-A of the Industrial Disputes Act with particular reference to Section 25 F & Section 25 G of that act. He has also prayed that he should be considered for regularisation as Extra Departmental Delivery Agent.

2. The brief facts of the case can be recounted as follows. ^{The applicant} He was originally appointed as a nominee of the regular incumbent Shri Sreedharan on 28.4.88. Shri Sreedharan resigned on 30.6.1988. Thereafter the respondents allowed the applicant to continue in a temporary adhoc capacity as Extra Departmental Delivery Agent. He is still continuing in the post. In the meanwhile the respondents initiated action for regular recruitment to the post of Extra Departmental Delivery Agent and on the basis of the nominations received from the Employment Exchange conducted the selection process. The applicant approached the Tribunal for an interim relief and on the basis of the directions of the Tribunal he was also interviewed by the Selection Committee. However, in accordance with the learned counsel for the respondents, some other candidate was recommended on the basis of the assessment of merits. The arguments of the learned counsel for the applicant is that with the resignation of the regular incumbent Shri Sreedharan, the status of the applicant as a nominee changed. Accordingly on the basis of the

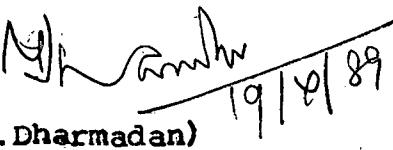
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benefits available to the applicant, (who had completed more than 240 days of continuous service) in accordance with Section 25 H of the Industrial Disputes Act, he was entitled to get preferential treatment for future appointment to the same post. The learned counsel for the respondents has stoutly argued that the applicant having been originally appointed as a nominee, he cannot be given the preferential treatment available to an industrial worker under the Industrial Disputes Act. He was good enough to make the proceedings of the Selection Committee which interviewed the candidates on 21.3.1989 available to us.

3. Having heard the arguments of the learned counsel for both the parties and gone through the documents carefully, we have no doubt in our mind that the applicant even though originally appointed as a nominee of the regular incumbent, assumed the status of a temporary adhoc appointee of the respondents after the regular incumbent Shri Sreedharan resigned and the respondents allowed the applicant to continue in the same post. As a matter of fact the respondents issued a formal order dated 17.8.1988 (Annexure-II) appointing him temporarily in place of the regular incumbent Shri Sreedharan who had tendered resignation.

In the circumstances it will be difficult for us to deny the applicant the benefits of the Industrial Disputes Act especially when he was allowed to put in more than 240 days of continuous service even after Shri Sreedharan's resignation. In more or less a similar case⁹ P.N.Balachandran Vs. The Sub Divisional Inspector, Postal, Palai Sub Division and others (O.A.K. 397/88) another Bench of this Tribunal had allowed a short term appointee to the post of Extra Departmental Mail Carrier to be considered for regular appointment with due weightage to the fact that he had worked in the post for more than two years.

4. In the facts and circumstances and as requested by the learned counsel for the applicant without going into the other reliefs claimed, we allow the application with the direction to the respondents that the applicant should also be considered for regular appointment to the post of Extra Departmental Delivery Agent after giving him due weightage to the fact that he had worked in the post at the instance of the respondents for more than one year. There will be no order as to costs.


(N. Dharmadan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

19. 10. 1989

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