

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O.A. No. 192  
T.A. No.

1989

DATE OF DECISION 18.12.1990

K. Rajan Applicant (s)

Mr. V. Rajendran Advocate for the Applicant (s)

Versus

U.O.I. rep. by DG, Postal Deptt.  
New Delhi and others Respondent (s)

Mr. A A Abul Hassan, ACGSC  
Mr. E. V. Nayanar for R-4 Advocate for the Respondent (s) 1 to 3

CORAM:

The Hon'ble Mr. **S. P. MUKERJI, VICE CHAIRMAN**

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 S. P. MUKERJI, VICE CHAIRMAN

The facts of this case lie with a narrow compass and can be summarised as follows. The applicant has been working as an Extra Departmental Mail Carrier at Kammana Post Office initially as a substitute and later on a provisional basis till 29.3.1989. The respondents initiated action to fill up the post on a regular basis and in pursuance of that sent a requisition to the concerned Employment Exchange indicating that the candidates "should have passed SSLC Examination". Accordingly, the Employment Exchange sent certain names of candidates to the respondents, but the name of the applicant was not included presumably because he had not passed the SSLC Examination. The applicant's grievance is that in accordance with the

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educational qualification laid down by the DG P&T for the post of Extra Departmental Mail Carrier, the educational qualification prescribed is only "sufficient working knowledge of the regional language and simple arithmetic so as to be able to discharge their duties satisfactorily. Categories such as Extra Departmental Messenger should also have enough working knowledge of English." Be that as it may, the respondent-4 was selected by the process of selection without considering the applicant who was occupying the post <sup>in situ</sup> on a provisional basis at the time of selection.

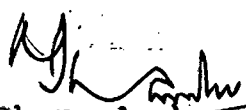
2. This Tribunal has been consistently taking the view that <sup>the</sup> incumbents of a post of Extra Departmental Agents occupying the same on a provisional basis should also be considered for regular selection along with other candidates even though his name is not sponsored by the Employment Exchange. The line of action taken by the respondents is not in conformity with that approach. Further, and more importantly, <sup>the</sup> the respondents misdirected the Employment Exchange by limiting the choice of sponsored candidates to those who have passed SSIC Examination even though the same is not prescribed as the minimum educational qualification by the DGP&T. In that manner, the applicant who was a <sup>potential</sup> candidate for the post on the basis of experience and educational qualification was debarred at the threshold to participate in the selection.

3. We have heard arguments of learned counsel for both the parties and gone through the documents carefully. In the circumstances as discussed above we feel <sup>that</sup> in fairness, <sup>entire</sup> the process of selection which was <sup>constricted</sup> considered unwarrantedly the prescribed qualifications stands vitiated and in fairness to the applicant he should be also allowed to participate in the selection. Accordingly, we allow the application

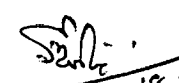
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to the extent of setting aside the selection of the fourth respondent and direct the respondents 1 to 3 to initiate fresh de novo action for selection of suitable candidate considering all those who had been sponsored by the Employment Exchange as also the applicant before us and make a regular selection. ~~The~~ Respondent-4 should continue to occupy the post on <sup>a</sup> provisional basis subject to the outcome of the selection. We make it clear that in case he is finally selected, the service rendered by him till <sup>then</sup> ~~now~~ will be considered to be regular for all purposes.

4. There will be no order as to costs.

  
(N. Dharmadan)  
Judicial Member

18/11/90

  
(S. P. Mukerji)  
Vice Chairman

18.XII.90

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