

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 194/98

Wednesday, this the 11th day of March, 1998.

CORAM:

HON'BLE MR AV HARIDASAN, VICE CHAIRMAN

HON'BLE MR SK GHOSAL, ADMINISTRATIVE MEMBER

KM John,  
Driver,  
Posts & Telegraph Mail Motor Service,  
Cochin-16.

- Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. Manager,  
Mail Motor Service,  
Ernakulam.
2. Chief Postmaster General,  
Kerala Circle,  
Trivandrum.

- Respondents

By Advocate Mr George Joseph, ACGSC

The application having been heard on 11.3.98, the Tribunal on the same day delivered the following:

O . R . D . E . R

HON'BLE - MR - AV - HARIDASAN, - VICE - CHAIRMAN

The applicant who was appointed as a Cleaner on ad hoc basis with effect from 7.7.83, by order at A-1 was regularised in service on that post with effect from 7.7.83. He was confirmed on that post with effect from 1.4.88 by order dated 13.5.88 at A-4. He was successful in a test conducted in the year 1986 for appointment to the post of Driver in MMS, Ernakulam. However, he was not appointed on the post though he was made to work

as a Driver on honorarium basis, while he was substantively holding the post of a Cleaner. The test held in 1986 was subsequently cancelled. The applicant was promoted as a Driver, MMS, Ernakulam by order dated 18.5.90. His present grievance is that he has not been given promotion as Driver Grade-II to the scale of Rs.1200-1800 so far in implementation of the scheme for grade promotion introduced in the department. According to the scheme, a Driver who has put in a service of nine years is to be placed in the higher grade. The applicant claims that although there was a vacancy of Driver, the respondents delayed his promotion to that post till 18.5.90 and therefore, they are bound to consider him for grant of higher scale taking into account the service rendered by him prior to his regular appointment on honorarium basis as regular service. With these allegations the applicant has filed this application for a declaration that the applicant is entitled to be promoted as Driver Grade-II taking into account the service rendered by him as Driver on honorarium basis right from his initial appointment and to direct the respondents to promote him as Driver Grade-II. His representation in that regard was turned down by the first respondent in his order dated 26.7.97 A-8 wherein he was clearly told that a vacancy of Driver arose on 1.12.89, that though DPC was scheduled to be held on 29.12.89, on account of a stay order issued by the Tribunal in O.A.773/89, the DPC could not meet on that date, that immediately on clearance by the Central Administrative Tribunal, the DPC was held on 15.5.90 and the applicant was promoted with effect from 18.5.90, and that as he did not have the requisite length of service for being placed in the higher grade of Driver he was not entitled to the relief sought by him in his representation. It is aggrieved by that the applicant has filed this application.

3. Though the standing counsel for respondents took adjournments for filing a reply statement, no reply has been filed so far. However, when the matter came up for hearing today, learned counsel for respondents stated that he is ready to argue the case on the basis of the instructions received from the respondents.

4. We have therefore heard the learned counsel on either side.

4. On a careful consideration of the facts stated in the application and the Annexures appended thereto and the points raised by the learned counsel on either side, we find little merit in this application. A Driver is entitled to be promoted to the post of Driver Grade-II in the scale of Rs.1200-1800 only on completion of nine years of service. Admittedly, the applicant did not have nine years of regular service as a Driver. He was not even appointed on ad hoc basis as a Driver till his regular appointment with effect from 18.5.90. His performance in the post of Driver on honorarium basis for some time while holding substantively the post of Cleaner does not qualify him for counting that period as regular service in accordance with the scheme. We therefore do not find any merit in the applicant's claim that he was entitled to be promoted to the post of Driver Grade-II on the date of filing the application. Finding no merit in the application, the same is dismissed, leaving the parties to bear their own costs.

Dated, the 11th March, 1998.

  
(SK GHOSAL)  
ADMINISTRATIVE MEMBER

  
(AV HARIDASAN)  
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A-1 : Order dated 7-7-83 No.8/MS/12/III issued by the 1st respondent to the applicant.
2. Annexure A-4 : Order No.8/MS/II dated 13-5-88 ~~issued~~ by the 1st respondent to the applicant.
3. Annexure A-8 : Order No. 8/MS/22/III dated 26-7-97 issued by the 1st respondent to the applicant.

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