

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.198/2001.

Tuesday, this the 10th day of April, 2001.

CORAM:

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

V.K.Bhaskaran,  
Extra Departmental Branch Post Master,  
Kilinnanyam B.O.  
Vadakara Division.

Applicant

(By Advocate Shri O.V.Radhakrishnan)

Vs.

1. Superintendent of Post Offices,  
Vadakara Postal Division,  
Vadakara 673 101.
2. Director of Postal Services,  
Northern Division,  
Office of the Post Master General,  
Northern Region, Calicut.
3. Post Master General,  
Northern Region, Calicut.
4. Union of India, represented by  
its Secretary,  
Ministry of Communication,  
New Delhi.

Respondents

(By Advocate Shr T.C.Krishna, ACGSC)

The application having been heard on 10.4.2001, the Tribunal on the same day delivered the following:

O R D E R

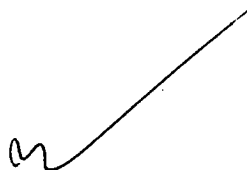
HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant is presently working as Extra Departmental Branch Post Master, (EDBPM for short) Kilinnanyam Post Office on regular basis with effect from 22.12.89. Earlier he was initially appointed on a provisional basis as Extra Departmental Sub Post Master (EDSPM for short), Nochat, while the original incumbent on that post was put off duty w.e.f. 12.7.86. As Shri K.T.Bhaskaran Nair was dismissed from service, order dated 4.1.1989 was issued appointing the applicant on that post

w.e.f.12.7.86. However, for his misfortune Shri K.T.Bhaskaran Nair was reinstated in service by order dated 14.6.89, with the result, the applicant was discharged from service by order dated 15.6.1989. Fortunately, the applicant was appointed as EDBPM, Kilinnayam on a regular basis by order dated 22.12.1989. Before occurrence of vacancy in the post of EDSPM, Nochat, the applicant made representation on 29.1.2000 to the first respondent requesting that he may be considered for the post with due priority treating that he was given regular appointment as EDSPM, Nochat in 1986. The request of the applicant was turned down by impugned order dated 28.2.2000 (A-8) issued by the first respondent on the ground that he would be entitled for consideration only alongwith outsiders. Aggrieved by this, he made an Appeal Petition dated 8.3.2000 to the 3rd respondent, Post Master General, which was also rejected by order dated 4.8.2000 by the 2nd respondent on the ground that there is no exceptional circumstances necessitating transfer in the case of the applicant. Aggrieved by this, the applicant has filed this application to have the Annexures A8 and A9 set aside, to issue an order directing the 1st respondent to transfer the applicant back to his original post of EDSPM, Nochat on the basis of A-12 and A-13 and to issue appropriate orders directing the respondent to consider the applicant for transfer before considering the case of other working ED agents.


2. The applicant has contended that, as he was initially appointed as EDBPM, Nochat on a regular basis and thereafter he was discharged from service on reinstatement of original incumbent, he has a preferential right for transfer to Nochat.

3. The respondents in their reply statement contend that the applicant was appointed on the post of EDBPM, Nochat in the put off vacancy of original incumbent Shri.K.T.Bhaskaran Nair



and he has to be discharged from the post on the reinstatement of the original incumbent. The applicant is not a retrenched or a surplus ED Agent, having a claim to go back to the post of EDBPM, Nochat and therefore, the applicant is not entitled to the post as a retrenched ED Agent, contend the respondents. Respondents further contend that they have shown leniency in regular appointment in favour of the applicant as EDSPM and that does not entitle him for transfer. In the reply statement the respondents have made it clear that the case of the applicant would be considered alongwith the other ED Agents.

4. Giving the facts and circumstances brought out in the pleadings and materials placed on record, our anxious consideration, we find that the impugned orders are not justified in terms of the instructions contained in the letter of Director General of Posts dated 12.9.98 that, a working ED Agent is entitled to be considered for appointment by transfer to another ED post falling vacant in the same recruitment unit, if he is found eligible and suitable. The respondents have no case that the applicant is not entitled for transfer to another ED post falling vacant in the same recruitment unit alongwith other working ED Agents. However, the claim of the applicant that he has a precedence over other working ED Agents, as he is a retrenched EDBPM, Nochat, also cannot stand because the applicant's appointment on that post was by virtue of put off duty of Shri K.T.Bhaskaran Nair. If the first appointment of the applicant as EDBPM was on regular basis, he could not have been displaced for reinstatement of the original incumbent in that post. As the applicant is now presently holding the post of EDBPM, Kilinnayam in terms of the letter of the DG (Posts) dated 12.9.98, he is entitled to be considered for transfer alongwith other ED Agents.

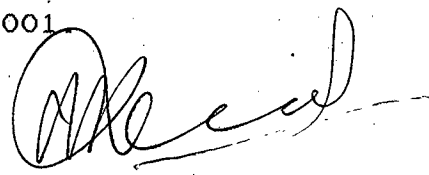


5. In the light of what is stated above, the application is disposed of directing the respondents to consider the case of the applicant for transfer alongwith the requests of other working ED Agents and to resort to recruitment from open market only if the applicant or other ED Agents if any, who have applied are found ineligible and unsuitable for appointment as EDBPM, Nochat. No costs.

Dated the 10th April 2001



T.N.T.NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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List of Annexures referred to in the order:

A8: True copy of the Memo No.B3/Nochat dated 28.2.2000 of the Ist respondent.

A9: True copy of the Memo No.B3/Nochat dated 4.8.2000 of the Ist respondent.

A-12: True copy of the letter No.13-27/85-Pen(EDC &TRG) dated 12.9.1988 of the D.G Posts.

A-13: True copy of the letter No.17-60/95/ED & Trg. dated 28.8.1996 of the DG Posts.