

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.199/99

Wednesday, this the 5th day of September, 2001.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

B. Gopalakrishnan,
ED Branch Post Master,
Champakulam East Post Office,
Alappuzha.
(Residing at Perumanath Veedu,
Champakulam East,
Champakulam P.O)

Applicant

By Advocate Ms K. Indu.

VS.

1. The Director General of Posts,
Department of Posts,
New Delhi.
2. The Postmaster General,
Central Region,
Kochi.
3. The Superintendent of Post Offices,
Alappuzha.
4. K. Sivanandan,
E.D.S.P.M (Provisional),
Ponga Post Office.

Respondents

By Advocate Ms S. Chithra, ACGSC for R 1-3
" Mr O.V. Radhakrishnan for R-4

The application having been heard on 5.9.2001, the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

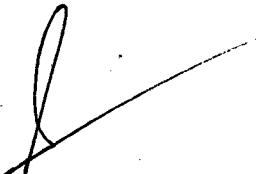
Applicant seeks to quash A4 and A5, to declare that he is entitled to be transferred and posted as ED Sub Post Master, Ponga Post Office, and to direct the respondents to consider him for transfer and posting as ED Sub Post Master, Ponga Post Office, ignoring A4 and A5, in preference to outsiders and also consider him for promotion as Group D as there are vacancies of Group D post under Alappuzha Division.

2. When the O.A. came up for the first time, learned counsel for the applicant submitted that the relief sought to direct the respondents to consider the applicant for promotion to Group D post, is not pressed.

3. Applicant is working as ED Branch Post Master, Champakulam East. On coming to know that there is a vacancy of ED Sub Post Master at Ponga Post Office, he applied for a transfer to that post. However, he was not offered appointment to that post. Third respondent is arbitrarily engaging a temporary hand to the said post when such appointment could be given to the applicant till a regular selection is made.

4. Official respondents resist the O.A. contending that K. Sivanandan, a nominee of the Employment Exchange, was provisionally appointed as ED Sub Post Master, Ponga Post Office with effect from 19.4.95 against the vacancy of a regular incumbent viz; Omana Abraham who was under put off duty. The said Sivanandan is continuing in the post. The post of ED Sub Post Master, Ponga is not vacant and the applicant is not entitled for transfer as ED Sub Post Master, Ponga.

5. The 4th respondent contends that the post of ED Branch Post Master, Ponga became vacant in the year 1995 when the regular incumbent was put off duty pending departmental enquiry. Thereafter, the third respondent initiated steps for filling up the said post on provisional basis and the 4th respondent, after being nominated by the Employment Exchange was selected for appointment to the above post after due process of selection.

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6. In the Additional Reply Statement filed by the respondents it is stated that judicial proceedings against Omana Abraham has been finalized, that she has been acquitted, that she has submitted a petition to the Post Master General requesting to reinstate her into service, and that the petition is pending finalization.

7. It is clear that the post of ED Sub Post Master, Ponga, is not vacant since 19.4.95. A1 is the true copy of the application in vernacular made by the applicant to the Superintendent of Post Offices, Alleppy Division. A1(a) is stated as the certified true copy of the original document. A1(a) is in English. We fail and follow to understand what is the meaning of last sentence contained in A1(a) 'This Annexure A1(a) is the true copy of the original document'. If it is the true copy of the original, it could only be in vernacular. If A1(a) is the true translation of A1, the certification should be that A1(a) is the translation of A1. Even if A1(a) is taken as the translation of A1, it is not a true translation. A1 is dated 18.1.99. From the materials available, including the selection file made available for our perusal by the official respondents, it is clear that there was no vacancy of ED Sub Post Master at Ponga in the year 1999. The supplemental 4th respondent was selected to the post of ED Sub Post Master, Ponga, provisionally in the put off vacancy of Omana Abraham. From the file relating to the selection produced it is seen that the supplemental 4th respondent was selected after following the regular selection procedure, he having been one of the candidates sponsored by the Employment Exchange.

8. From the file produced it is seen that the order of appointment issued to the supplemental 4th respondent contains a clear stipulation that he should understand that if it is

decided to take Omana Abraham back into service at any time, the provisional appointment will be terminated without notice. So, the question of termination of Sivanandan, the 4th respondent, arises only if Omana Abraham comes back into service and not at any point of time earlier to that. If Omana Abraham comes back into service, there will be no vacancy. As far as the present position is concerned, her request for reinstatement is pending before the Post Master General concerned. So, the position is that there was no vacancy when the applicant submitted A1 representation or at any point of time subsequent to that. There is no challenge against the appointment of the supplemental 4th respondent.

9. It was submitted by the learned counsel for the applicant as well as for the official respondents and private respondents that A4 and A5 have already been quashed by this Bench of the Tribunal as per order in O.A.45/98. That being so it is unnecessary to quash A4 and A5 again.

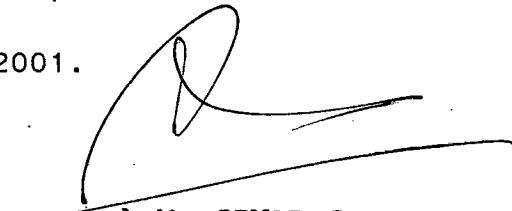
10. Since there is no vacancy of ED Sub Post Master, Ponga, and the applicant's claim is without any basis and the supplemental 4th respondent has been unnecessarily dragged to the Tribunal, and further that there is no relief sought to quash the order of appointment of the 4th respondent, this O.A is liable to be dismissed with cost to the 4th respondent.

11. Accordingly, the Original Application is dismissed with costs Rs.500/- (Rupees five hundred only) to the 4th respondent.

Dated the 5th of September, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER