

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 22 1992

DATE OF DECISION 30.4.93

T. S. Sunilkumar Applicant (s)

Mr. O.V. Radhakrishnan Advocate for the Applicant (s)

Versus

The Assistant Supdt. of Post Respondent (s)  
Offices, Trissur South Sub Division, Trissur-1  
and others

Mr. Mathews J. Nedumpara, AOGSC Advocate for the Respondent (s) 1 & 3  
Mr. Padmanabhan for R-2

CORAM :

The Hon'ble Mr. <sup>0</sup> N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGARAJAN ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? <sup>Y</sup>
2. To be referred to the Reporter or not? <sup>no</sup>
3. Whether their Lordships wish to see the fair copy of the Judgement? <sup>no</sup>
4. To be circulated to all Benches of the Tribunal? <sup>no</sup>

## JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Applicant who has prior provisional service as EDMC for various spells at Perincherry Branch Office under Trissur Division challenges Annexure A-9, dated 10.12.91, an order of Asst. Supdt. of Postoffices, Trichur South Sub Division appointing the second respondent as EDDA, Perincherry in the regular vacancy after terminating the provisional service of the applicant.

2. Applicant stated that he worked as EDMC in Perincherry Branch Office for various spells from January, 1984 till June, 1987. He was also provisionally appointed as EDMC in the same post office w.e.f. 3.10.89. The first

respondent again appointed him as per Annexure A-2 dated 21.1.90 as provisional EDDA in the same post office. When Annexure A-3 notification was issued inviting applications from candidates who have passed SSLC for conducting a regular selection as EDDA, Perincherry BPO, applicant filed O.A. 252/90 and obtained a stay against the termination of his service. That O.A. was finally disposed of directing respondents to consider him also. Thereafter, first respondent considered applicant also in the interview held on 2.12.91. He selected second respondent and issued Annexure A-8 directing applicant to relinquish the charge of EDDA, Perincherry BPO w.e.f. 11.12.91. By the impugned order Annexure A-9 second respondent was appointed as EDDA, Perincherry post Office being the candidate duly selected for the post.

3. Respondents 1 & 2 filed separate reply statements. Applicant also filed a rejoinder.

4. At the time of final hearing, various contentions were raised by learned counsel for applicant. According to him, applicant was not given due weightage for past service and no interview was held on 2.12.91. The first respondent only verified the certificates produced by candidates including the applicant. He has also not conducted any cycling test. After verification of the documents, applicant was informed that the result would be intimated later. Without giving any further intimation about the result, service of the applicant was terminated by issuing Annexure A-8 and in his

place the second respondent was appointed. Both the appointment of second respondent and termination of applicant are challenged on the ground of <sup>4</sup> violation of principle of natural justice and also provisions of Chapter-V-A of I.D. Act, 1947.

5. The minutes of the selection proceedings were made available by the learned counsel for respondents. It shows that nine candidates were sponsored by the Employment Exchange. They were considered along with applicant on the basis of direction in O.A. 252/90. After considering the claims of the applicant, the second respondent was selected because first respondent found her to be "most eligible and suitable candidate."

6. The fact that applicant was having provisional service as EDDA in the same post office was adverted to and considered at the time of selection. Hence, we are not prepared to accept the contention that <sup>4</sup> her weightage for the past service of the applicant was either <sup>not</sup> considered or denied in the regular selection.

7. Applicant's case that termination is illegal and violative of principles of natural justice as well as provisions of Chapter-V-A of the I.D. Act cannot be accepted in view of the specific statement in the earlier judgment in O.A. 252/90 that the applicant shall be allowed to continue as EDDA, Perincherry BPO till regular selection and appointment to the post is made. He suffered that order and agreed to continue in that post only upto the appointment of the regularly selected candidate.

8. In the facts and circumstances of the case, the only question to be considered is whether the selection of second respondent is legal and valid. On a perusal of the minutes as indicated above it is found clear that the fact that the applicant was working as EDDA in the same post office was adverted to in the selection proceedings and selection was made after adverting to this aspect as well. So the selection has been made after a careful evaluation of the comparative merits of the candidates, though it appears that marks obtained in the SSLC weighed much with the first respondent. Nevertheless, on a verification of the files it can be seen that the selection was made not solely on the basis of marks obtained in the SSLC. He accordingly prepared a tabulation form in which all the details of the candidates have been specifically stated. From the comparative merits of the respective candidates as shown in the tabulation form and other details furnished thereon, it is crystal clear that the applicant was not the meritorious candidate to be selected. By giving weightage to the provisional service rendered by the applicant, his rank in the list cannot be brought above the second respondent. The criteria for selection has been laid down by this Tribunal in O.A. 254/91 W.V. Pushpavalli Vs. Supdt. of Post Offices, Kannur. The relevant portion is extracted below:

"9. The criteria for selection of an E.D. Agent under the Rules supplemented by the relevant instructions are:-

- 1) Minimum age limit of 18 years and maximum of 65 years should be satisfied for employment as ED Agent.

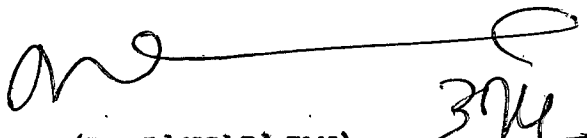
- 11) For the post of EDDA, EDBPM and EDSPM the candidate should have completed VIIIth standard as educational qualification; but when other things becomes equal in every respect, matriculation or equivalent may be preferred. PMG's letter dated 12.8.87 states that preference shall be given to those who are possessing highest educational qualifications above the level of SSLC. Among matriculates candidates, candidate having highest mark has a chance of selection provided the candidate is found physically fit. In the case of all other categories of ED staff no minimum educational standard has been prescribed, but the candidate should have sufficient "working knowledge of the regional language and simple arithmetic." In the case of ED Messenger the candidate should possess in addition to the above "enough knowledge of English."
- iii) For the post of EDSPM/EDBPM the candidate should have adequate means of livelihood which is supplementary to the allowances of the work as ED Agents and the selected person should be able to offer space for postal operations.
- iv) The EDSPM/EDBPM must be permanent resident of the village where the post office is located so as to enable him/her to attend official work. In regard to EDMC, ED Carrier, Mail Peon, etc. he should reside in the station of the Main Post Office or delivery jurisdiction.
- v) An ED Agent of all categories should furnish a security of Rs. 1000 subject to variations.
- vi) Ability to ride bicycle is a precondition and a candidate should possess ability to ride bicycle in the case of selection of EDAs to be engaged on out door duties as per letter dated 18.8.73.
- vii.) The candidate should satisfy physical fitness and sound health for discharging duties. 'The selection should easily be the best one suitable for the post notified' in every respect. Preference will be given to SC/ST to ensure the fixed percentage.
10. The authority who makes selection to an ED post may conduct an interview to satisfy the physical and general fitness of the candidate, but he is bound under the Rules supplemented by instructions to conduct the selection proceedings bearing in mind the above principles and criteria, for choosing the 'best one suitable for the post notified' and not a candidate of his choice using his own discretion in an arbitrary manner. The selection should be fair and impartial. He should apply the criteria scrupulously for picking out the best among the lost. If the Tribunal or the Court on verification of the records and the selection proceedings is satisfied that the above principles and criteria are not followed or applied in the selection proceedings it is liable to be quashed."
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9. We are satisfied after verifying the facts that this selection has been made after following the criteria stated above.

10. Under these circumstances after careful perusal of the files and the minutes we are satisfied that the selection has been done in a fair manner after making a comparative study of the merits of the candidates. Hence, we are not inclined to go into various other contentions raised by the learned counsel for applicant.

11. Having regard to the facts and circumstances of the case, we are of the view that there is no merit in the application and it is only to be rejected and we do so. But we make it clear that in case the applicant is aggrieved by his termination, he is at liberty to approach the Labour Court for getting relief under Chapter V-A of the I.D. Act, 1947. If he approaches that authority, the <sup>Case 4</sup> same may be considered and decided by the authority uninfluenced by any of the observations made in this judgment.

12. There shall be no order as to costs.

  
(R. RANGARAJAN)  
ADMINISTRATIVE MEMBER

kmn

  
(N. DHARMADAN)  
JUDICIAL MEMBER

30.4.93