

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~KAXXNoX~~

218

199 1

DATE OF DECISION 15-11-1991

V.A.Muraleedharan Applicant (s)

Mr.M.R.Rajendran Nair Advocate for the Applicant (s)

Versus

The Chief Post Master General Respondent (s)
Kerala Circle, Deptt. of Posts,
Trivandrum & 2 others

Mr.A.A.Abulhassan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman
and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *✓*
2. To be referred to the Reporter or not? *~*
3. Whether their Lordships wish to see the fair copy of the Judgement? *~*
4. To be circulated to all Benches of the Tribunal? *~*

JUDGEMENT *✱*

(Mr.A.V.Haridasan, Judicial Member)

The applicant while working as Postman in Ernakulam Postal Division participated in an examination for promotion to the cadre of Postal Assistant/Sorting Assistant held on 9.7.1989 for filling up of the vacancies which arose in Ernakulam Division in the year 1990. His name was included in the select list of candidates who passed the examination. On the ground that there was no vacancy to absorb the applicant and some others, they were treated as surplus qualified candidates and were absorbed in other divisions on the basis of their willingness.

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✓

The applicant was allotted to Palghat Postal Division and on successful completion of the training he was appointed as Postal Assistant at Kadangode Post Office. As the applicant came to know that there were existing vacancies in Ernakulam Division which arose in 1990 itself he made a representation dated 25.8.1990 to the first respondent requesting that he may be re-allotted to Ernakulam Division. This representation has not so far been disposed of by the first respondent. In the meanⁿwhile two persons similarly situated like the applicant^{who} were allotted to Ottappalam Division filed OA 642/90 before this Tribunal and the Tribunal directed the respondents to absorb them in Ernakulam Division. The applicant has therefore filed this application praying for a direction to the respondents for absorb him in Ernakulam Division in one of the existing vacancies forthwith. It has been averred that, as the examination held in 1989 was for the purpose of filling up the vacancies of Postal Assistant/Sorting Assistants which arose in Ernakulam Division during the year 1990 and^{since} even now vacancies ear-marked for the year 1990 are existing the respondents are bound to realLOT the applicant to Ernakulam Division as was done in the case of the applicant in OA 642/90.


2. In the reply statement filed on behalf of the respondents it has been contended that the examination held on 9.7.1989 was for filling up of 10 posts only,

that there were only 6 vacancies for other communities, that as the applicant did not come up in rank to be accommodated in the above said 6 vacancies he had to be absorbed in Palghat Division on his option. It has been contended that the applicants in OA 642/90 and 522/90 were reallocated to Ernakulam Division on the basis of the decision in those cases and that the applicant is not entitled to the same relief.

3. We have heard the counsel on either side and have also carefully perused the pleadings and documents.

4. The case of the respondent that there were only 10 vacancies in Ernakulam division in the year 1990 does not appear to be true on the basis of what is stated by them in their reply statement in OA 642/90 and ~~it~~ cannot be sustained in view of the order of this Bench in that case also. In the reply statement, in OA 642/90 it was admitted by the respondents that during the latter part of May, 1990, 26 posts of Postal Assistants were created in Ernakulam Division. The applicants in OA 642/90 and the applicant in this case are similarly situated in all respects. While the applicant was in Sl. No.9 in the select list prepared on the basis of the examination held on 9.7.1989 Smt.M.V.Devaki, the second applicant in OA 642/90 was No.11 in that list. In the final order

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passed in OA 642/90 it was observed by this Bench that at the time when the applicants participated in the examination as per the notification issued by the respondents there was a declaration that all vacancies of Postal Assistants arising in Ernakulam Division were to be filled ^{who} till the end of 1990 ~~by~~ the persons ^{pass} in that test. That the applicants participated in that examination and passed the same with the expectation of getting a posting at Ernakulam Division, that they were declared as surplus qualified candidates and allotted to other divisions only on account of ban imposed by the Government and not on account of their fault, and that as 16 vacancies were existing in Ernakulam Division, the interest of justice demanded the grant of the prayer of the applicants therein for reallotment to Ernakulam Division. It was contended before the Bench in that case that, if the claim of the applicants therein was acceded to several similarly situated persons might also come forward with similar claims, and that, therefore, that would lead to a lot of administrative problems. The Bench observed:

" As indicated above, the respondents have specifically admitted in the counter affidavit that sixteen vacancies are even now existing for filling up by departmental candidates. By posting the applicants in two of these vacancies as a special case their grievance can be redressed. That others would make similar request is no excuse. If any other person similarly

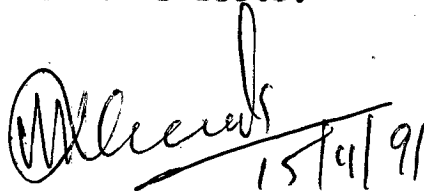
situated makes such a claim it will have to be dealt with and decided taking into consideration the merits of his claim, the existence of the vacancies at that time and the claims of others whose interest will be prejudiced by such decision."

After the disposal of OA 642/90 Smt.C.G.Kaumudi, a person similarly situated like the applicant approached the Tribunal for identical relief. The application was disposed of with a direction to the applicant therein to submit a representation with a copy of the judgement in OA 642/90 to the second respondent within a period of 15 days from the date of the order and that ^{if} such a representation was submitted the second respondent therein should dispose of the same in the light of the observations made in OA 642/90 within a period of one month from the date of receipt of that order. On the basis of that representation submitted by Smt.Kaumudi as directed in OA 522/90 she was also absorbed in Ernakulam Division. The applicant who is similarly situated as the applicant in OA 642/90 and 522/90 and who is infact senior in rank to the second applicant in OA 642/90 has submitted a representation for allotment to Ernakulam Division as early as on 25.8.90. The first respondent has not so far disposed of the above representation. On the very same principle as in the case of the applicants in OA 642/90 and OA 522/90 the applicant is also

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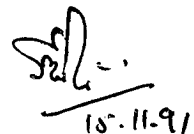
entitled to be reallocated to the Ernakulam Division as more vacancies arose in Ernakulam Division during the year 1990 and as the examination in which the applicant participated was held for the purpose of filling up the vacancies arising upto the end of the year 1990. Therefore we are of the view that the applicant is bound to succeed[✓] in this application.

5. In the result, we allow the application and direct the respondents to reallocate the applicant to Ernakulam Division as Postal Assistant in one of the existing vacancies within a period of one month from the date of communication of this order. There is no order as to costs.



15/11/91

(A.V. HARIDASAN)
JUDICIAL MEMBER



15.11.91

(S.P. MUKERJI)
VICE CHAIRMAN

15-11-1991