

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.220/04

Tuesday this the 23rd day of March 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

A.Sajad,
Extra-Departmental Packer,
(Redesignated as Gramin Dak Sevak Packer)
Pallipuram P.O., Trivandrum District.

Applicant

(By Advocate Mr.Thomas Mathew)

Versus

1. Assistant Superintendent of Post Offices,
North Sub Division, Trivandrum.
2. Senior Superintendent of Post Offices,
North Division, Trivandrum.
3. Chief Post Master General,
Kerala Circle, Trivandrum.
4. Union of India represented by its
Secretary, Department of Posts,
New Delhi.

Respondents


(By Advocate Mr.C.Rajendran,SCGSC)

This application having been heard on 23rd March 2004 the
Tribunal on the same day delivered the following :

O R D E R


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

The applicant started his service as a Casual Labourer at
Pallipuram P.O. with effect from 1.2.1996. He was engaged as
E.D.Messenger with effect from 1.11.1997 in a newly created post.
Finding that the post of E.D.Messenger was notified for being
filled up from open market the applicant filed O.A.1622/98 for a
declaration that he was entitled to be absorbed/appointed as
E.D.Messenger, Pallipuram in the vacancy which he was holding
from 1.11.1997 in view of the preferential claim accrued by the



applicant by virtue of Annexure A-2. The Tribunal in its order dated 15.6.2001 held that the applicant was entitled to be absorbed/appointed as E.D.Messenger, Pallipuram in the vacancy which he held from 1.11.1997 in view of Annexure A-2 communication subject to his fulfilling other conditions regarding suitability and directed the respondents to consider the applicant for absorption/appointment as E.D.Messenger, Pallipuram in the light of the instructions contained in the letter of D.G.Posts.

2. The applicant had also filed O.A.206/01 for a declaration that he was entitled to be appointed as E.D.Packer, Pallipuram. Pursuant to the order in that O.A. directing the respondents to consider the applicant for appointment to the post of E.D.Packer, Pallipuram on the basis of the instructions contained in D.G.Posts letter dated 6.6.1988 the applicant was appointed as E.D.Packer with effect from 8.10.2001. He relinquished the charge of E.D.Messenger, Pallipuram on 8.10.2001 and took over as E.D.Packer, Pallipuram on the same day. The applicant pursuant to the notification dated 22.1.2004 applied for participation in the examination for recruitment to the post of Postman for which GDS officials who put in five years of regular service put in five years of regular service within the age limit could participate. The applicant's candidature was rejected by Annexure A-13 order on the ground that he did not have five years of regular service but had a service of two years only. Aggrieved by that the applicant has filed this application seeking to set aside Annexure A-13 and Annexure A-7 to the extent it prescribes regular service of five years as condition of eligibility to appear in the examination.



3. We have perused the application and annexures appended thereto and have heard Shri.Thomas Mathew, learned counsel of the applicant and Shri.C.Rajendran,SCGSC for the respondents. It is evident from a mere reading of what is stated in the application that the applicant started his career as Casual Labourer was engaged as E.D.Messenger with effect from 1.11.1997 but pursuant to the order of the Tribunal in O.A.206/01 was considered and appointed as E.D.Packer, Pallipuram with effect from 8.10.2001. This shows that the applicant has been regularly appointed as an E.D.Agent, that is, E.D.Packer, Pallipuram with effect from 8.10.2001. The engagement of the applicant as ED Messenger from 1.11.1997 has not been made after a due process of selection but only as a stop gap arrangement as the applicant was available there as a casual labourer whose services could be utilised by the department. The applicant on the basis of his casual service sought preferential right for appointment/absorption on the post in OA 1622/98 and the Tribunal in its order only directed the respondents to consider the applicant for absorption/appointment as E.D.Messenger in the light of the instructions contained in the letter of DG (Posts) dated 6.6.1988 (A2) in that case. However, the applicant was not appointed on the post of E.D.Messenger, but was appointed as E.D.Packer a different post pursuant to the order in OA 206/2001 directing the respondents to consider him for appointment as E.D.Packer, Pallipuram in the light of the instructions contained in the DG (Posts) letter dated 6.6.88. It is thus amply clear from the averments in the O.A. itself that the applicant was neither absorbed or appointed as E.D.Messenger, Pallipuram but was engaged on the post from

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1.11.97 while working as a Casual Labourer and was considered for appointment and appointed giving preference as a casual labourer on the basis of DG (Posts) letter dated 6.6.88 w.e.f. 8.10.01. The applicant's engagement as E.D.Messenger from 1.11.97 was not an appointment on adhoc or officiating. It was only an engagement of a casual labourer. The decision in 1964 KLT 704(FB), or AIR 1990 SC 1607 have absolutely no bearing on the facts and circumstances of the case. There is no specific and reasonable challenge to the prescription of five years regular service in Annexure.A7 which is in conformity with the rules which has stood the test of time.

4. In the light of what is stated above, we do not find anything which calls for admission of this application. Hence we reject the Original Application under Section 19(3) of the Administrative Tribunals Act, 1985.

(Dated the 23rd day of March 2004)

H. P. Das

H.P.DAS
ADMINISTRATIVE MEMBER

A.V. Haridasan

A.V.HARIDASAN
VICE CHAIRMAN

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