

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.23/2001

Friday this the 20th day of July 2001.

CORAM:

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

V.G.Challengerath,  
Part Time Casual Labourer,  
Eravipuram P.O. .... Applicant

(By Advocate Sri P.C.Sebastian)

vs.

1. The Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.
2. The Senior Superintendent of Post Offices,  
Kollam Division, Kollam-691 001.
3. The Assistant Superintendent of Post Offices,  
Kollam South Sub Division, Kollam-691 001.
4. The Union of India, Rep. by Secretary,  
Ministry of Communications, Dak Bhavan,  
New Delhi. .... Respondents

(By Advocate Sri K.Kesavankutty,ACGSC)

The Application having been heard on 20th July 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 who had passed SSLC Examination and had registered with the Employment Exchange applied for appointment as Part-time Contingent employee in the Eravipuram P.O. pursuant to a notification issued by the 3rd respondent for filling up of the post from open market in addition to the notification to the Employment Exchange. The applicant was called for interview and was selected and appointed with effect from 16.5.2000, by order dated 15.5.00 (A2). While the applicant was working as a Part-time contingent employee,

A

Eravipuram P.O. on the basis of A-2 order, he was served with a show-cause notice issued by the 3rd respondent dated 6.10.00(A3) informing him that on a review of the selection files, it was noticed that the procedure adopted for selection to the post of Part-time contingent labour, Eravipuram was irregular and that the selection was liable to be cancelled and calling upon the applicant to state as to why his selection should not be quashed.

2. The applicant sent a letter dated 14.10.2000 to the 3rd respondent in response to A-3 show-cause notice explaining that he was appointed after a due process of selection and seeking information as to what was the irregularity in the matter of selection. The applicant was not given any reply but the first respondent issued the impugned order, setting aside the selection of the applicant as Part-time casual labour of Eravipuram P.O. with immediate effect. Aggrieved by this the applicant has filed this application seeking to quash A-1 order setting aside the impugned order and to direct the respondents to allow the applicant to continue as Part time casual labour, Eravipuram Post Office based on his selection.

3. It has been alleged in the application that the process of selection as a result of which the applicant was appointed, was as per rules and instructions and there was no reason why the selection and appointment of the applicant should be reviewed and cancelled.

✓

4. In the reply statement filed on behalf of the respondents, it has been contended that there has been an irregularity in the process of selection in as much as the selection was made on the ground of previous experience while there was no requirement as per the instructions. It has been alleged that on receipt of a complaint dated 29.5.2000 from one Mr. Anup S., who was a candidate for selection and appointment to the post of Part time contingent Sweeper, the selection was reviewed, that it was found that the selection of the applicant was made on the basis of previous experience, for which evidence was not produced and that therefore, it has been found that the selection was irregular. The respondents contend that in the above circumstances, the impugned order was rightly issued.

5. On a careful scrutiny of the pleadings and the materials placed on record, and on hearing the learned counsel on either side, I am of the considered view that the impugned order A-1 is unsustainable in law. Either in the impugned order or in the reply statement filed on behalf of the respondents, it has not been stated that any person with more merit was overlooked for want of previous experience. The contention of the respondents that the criteria for selection should not be the previous experience but higher marks in the SSLC Examination, also has not covered by any rule or administrative instruction. The respondents in the reply statement have themselves submitted that there is no specific rule or instruction as to how the selection should be made to

man the post of Part-time contingent employee or part time casual labour. Even Shri Anup, on whose complaint a review has been made, has no case that he had obtained more marks in the SSLC examination than the applicant. What is stated in his complaint (Annexure R-2(A) is that he has appeared for interviews on 8.5.2000 and 10.5.2000 at the office of A.S.P.Kollam, and in all these interviews he has scored high marks i.e. 429/600. What is the source of his information that he scored the marks 429/600 and what actually was the marks obtained by other candidates also has not been mentioned in his complaint. Further no instruction has been brought to our notice to show that marks in the SSLC examination would be the criteria for selection, for the purpose of engagement as part time Sweeper, the marks in the SSLC examination would not be any guide regarding suitability. Therefore, how the Reviewing Authority came to the conclusion that the selection was not held properly is not clear from the documents produced on the side of the respondents, or from the impugned order, or from the written statement. If there had been an omission to mention experience as desirable qualification in open notification while it was so stated in the requisition to the Employment Exchange, that cannot be treated as a grave illegality which would vitiate the whole process of selection.

6. In the light of what is stated above, I am of the considered view that the impugned order setting aside the selection of the applicant cannot be sustained. The statement in the reply statement, that there was no document to

*an*

substantiate the applicant's claim for previous experience also is not of any consequence because, the respondents if had any doubt, should have asked the applicant to produce the document. The applicant having been selected and appointed by the competent appointing authority on merit, I am of the considered view that, without any concrete proof of any vitiating circumstance, the selection and appointment cannot be cancelled.

7. In the light of what is stated above, the impugned order A-1 is set aside and the O.A. is allowed. No costs.

Dated the 20th July 2001.



A.V. HARIDASAN  
VICE CHAIRMAN

rv

List of Annexures referred to in the order:

A-2: True copy of Letter No.PTCE/SO/4/KCM(S) dated 15.5.2000 issued by the 3rd respondent to the SPM Ernakulam.

A-3:True copy of Letter No.PTCE/Eravipuram dated 6.10.2000 issued by the 3rd respondent to the applicant.

A-1:True copy of Order No.rectt/11-20/98 dated 4.1.01 issued by the first respondent.

R-2(A):True copy of the representation dated 29.5.2000 submitted by Sri Anup S., before the first respondent.