

Final Order d/10-11-1987.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MADRAS BENCH.

Camp: Ernakulam.

Original Application No. 234 of 1986.

T. Seethalakshmy.

Applicant.

versus.

Union of India, represented by
the Secretary, Ministry of Information
and Broadcasting, New Delhi.

2. The superintendent of Post Offices,
Alleppey Division, Alleppey.

3. The Assistant Superintendent of
Post Offices, Alleppey/~~Division~~ Sub-
Division, Alleppey.

Respondents.

M/s M.K. Damodaran, P.V. Mohanan,
J. Jose, V.K. Mohanan & Jonny Sebastian. Counsel for applicant

Shri P.V. Madhavan Nambiar,

" " Respondents

CORAM: The Hon'ble Mr. Justice G. Ramanujam, Vice Chairman,

and

The Hon'ble Mr. C. Venkataraman, Administrative
Member.

(Order pronounced by the Hon'ble Mr. Justice G. Ramanujam,
Vice Chairman)

O R D E R.

In this application filed under section 19 of
the Administrative Tribunals Act, 1985, the applicant has

prayed for an order restraining respondents 2 and 3 from terminating the services of the applicant as Extra Departmental Branch Post Master~~y~~ at Kakkazham Post Office and to direct them to regularise the service of the applicant as Extra Departmental Branch Post Master at Kakkazham Post Office.

The circumstances under which the applicant has sought the above reliefs are these: The applicant was appointed as Extra Departmental Branch Post Master (for short E.D.B.P.M.) at Kakkazham Post Office on 5-5-1985 purely on ad hoc basis in the vacancy which arose on the transfer of Smt. M. Manohari to Shertallay. A notification calling for applications was issued for filling up the said post on a regular basis on 27-9-1985. The applicant was one among the three candidates who applied for the post and she appeared for the interview. However, the applicant was not selected but one Purushothaman was selected as a regular candidate for the post of E.D.B.P.M. Kakkazham. The applicant has complained that her non-selection to the said post was not proper.

Firstly the applicant contends that her ad hoc services for a period of ~~22~~ nearly 3 months

should have been taken into account and she should have been selected on a preferential basis to the post of E.D.B.P.M. which post the applicant was holding at the time of the selection. It is next contended that the interview has not been conducted on a fair and proper basis, and if a correct assessment had been made, the applicant would have been selected. It is also pointed out that as per the guidelines issued by the Post Master General, Kerala for the selection and appointment of Extra Departmental Agents, preference should be given to the retrenched E.D. agents, and the applicant, as a retrenched E.D. Agent should have been considered for preferential treatment in the matter of selection.

The claim of the applicant that she should have been selected in the place of Purushothaman is resisted by the respondents by filing a counter affidavit to the following effect. The post of E.D.B.P.M. Kakkazham fell vacant with effect from 17-5-1985 on the appointment of the then incumbent Smt. M. Manohari to another E.D. Post. The third respondent was then asked to make some provisional arrangement to enable Smt. M. Manohari to be relieved. The applicant was appointed to the said post as a stop-gap arrangement for a period of 89 days with effect from 17-5-1985 or till a regular appointment was made, whichever was

earlier. That provisional appointment was made on condition that her services will be terminated when a regular appointment was made and that she will have no claim for appointment to the post. Thereafter, for filling up the post on a regular basis, the Employment Exchange was asked to sponsor suitable candidates. As no reply was received from the Employment Exchange within the period of the 30 days prescribed, a notification was issued on 21-8-1985 calling for applications from the open market which is the procedure prescribed in case no reply is received from the Employment Exchange in response to the request made to it. In response to this notification, four applications were received including that of the applicant. Since the applicant had no independent income which is one of the conditions for selection, she was not selected for regular appointment and as one Purushothaman satisfied all the conditions for appointment, he was selected and appointed with effect from 25-2-1986. The applicant's allegation that the selection was not fair and proper is incorrect and untrue. Since the applicant was found not qualified to be appointed on a regular basis, she was not entitled to be appointed. Thus the respondents' stand is that the applicant was found

not qualified and, therefore, her non-selection cannot be questioned on any tenable ground.

Before us the learned counsel for the applicant reiterated the contentions urged in the application. One other additional point also was raised at the time of the arguments to the effect that the applicant being a retrenched ~~employee~~ E.D.B.P.M. she should be appointed on a preferential basis.

After a due consideration of the matter, we have to hold that the applicant has not established her claim for appointment on a regular basis. From the counter affidavit it is seen that the applicant does not have the requisite income qualification which is one of the conditions prescribed for regular selection. The fact that the applicant has served as E.D.B.P.M. on a step-gap arrangement for 89 days will not entitle her to claim regular appointment.

She cannot also claim as a retrenched employee, for the term 'retrenched employee' will mean an employee recruited on a regular basis but retrenched for want of vacancy on account of abolition of the post.

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Here the fact/that she was working on an ad hoc basis as a step-gap arrangement and this cannot be taken advantage of by the applicant to claim that she is a retrenched employee, so as to claim a preferential treatment in the matter of selection as per paragraph

III (C) of the guidelines issued by the Post Master General, Kerala Circle in the circular dated 29-10-1976 which provides for

"The applicants left after the first and second stages of scrutiny are to be subjected to a test and the selection is to be made from among those who qualified in the test in the order of preference as shown below:

- (a) Retrenched E.D. Agents.
- (b) S.C./S.T. candidates,
- (c) Pensioners.
- (d) others."

A close perusal of the above extract would indicate that only from among the candidates who are duly qualified for the post, the order of preference is to be followed and the retrenched Agents will get preference indicated there, ~~as~~ ^{before} (b) SC/ST candidates, (c) Pensioners and (d) others. In this case, ~~six~~ apart from the ~~xxx~~ fact that the applicant cannot be termed as a 'retrenched employee (E.D. agent)', she is not a person found qualified for the post. As already stated, in the counter affidavit it has clearly been stated that the applicant was not duly qualified as per the guidelines.

In this view of the matter, we feel that the selection in this case is fair and proper and the

non-selection of the applicant cannot be challenged on any tenable ground. The application is, therefore, dismissed.

C. Venkataraman
10-11-87

(C. Venkataraman)
Administrative Member.
10-11-1987.

G. Ramanujam

(G. Ramanujam)
Vice Chairman.
10-11-1987.

Index: Yes/No.
PGK.