

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.235/2001.

Thursday this the 28th day of November 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Lalithambika K,
(Part-time Sweeper, Kannur City Post Office),
W/o Velayudhan,
Near Municipal Colony,
R.No.253, Thayyil, Kannur-670 003. Applicant

(By Advocate Shri M.Sasindran and Bepin Vijayan)

Vs.

1. Sub Divisional Inspector of Post Office,
Payyannur Sub Division,
Payyannur-670 307.
2. Union of India represented by Secretary,
Department of Posts,
Ministry of Communications,
Dak Bhavan, Sansad Marg,
New Delhi-110 001.
3. Raju Cheriya Manikoth,
Bavode P.O.,
Via Mundalore-670 622.
4. The Post Master,
Kannur City Post Office,
Kannur. Respondents

(By Advocate Shri R.Prasanthkumar, ACGSC (R.1,2 & 4))

The application having been heard on 28th November, 2002, the Tribunal on the same day delivered the following:

O R D E R

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


The applicant working as Part-time Sweeper at Kannur city Post Office since 1989, in response to A-1 notification dated 29.12.2000 inviting application for the post of Extra Departmental Mail Carrier, Keezhara submitted A-2 request for considering her for appointment to the post in preference to outsiders in tune with the instructions contained in the letter of Director General of Posts. The request of the applicant was

rejected by A7/A7(a) order dated 12.2.2001 on the ground that the vacancy being only a temporary one and the applicant was not seen appointed on the post as Part-time Sweeper. On the same date A-9 order was issued offering the post to the 3rd respondent. Aggrieved the applicant has filed this application seeking to set aside the impugned orders A-7, A7(a) and A-9 declaring that the applicant has been appointed as Part-time Sweeper in the Kannur City Post Office and has been working in that capacity since 1989 and that she is eligible to be appointed in the post of EDMC, Keezhara and for a direction to the respondents to do so.

2. The respondents in their reply statement did not dispute the fact that the applicant has been working as Part-time Sweeper since 1989 and that the applicant had applied for appointment as EDMC, Keezhara. They seek to justify the impugned orders on the ground that, as the SPM Kannur in Annexure R-4 communication stated that, as per the office records the applicant was not seen to have been sponsored by the Employment Exchange and not seen appointed to the post, the applicant was not entitled to for preferential treatment and that the appointment of the 3rd respondent was perfectly in order.

3. We have gone through the pleadings and material placed on record and have heard the learned counsel on either side.

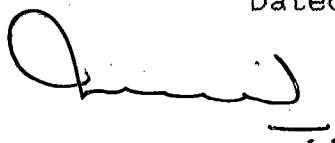
4. Annexure A-3 contains the instructions issued by the Director General of Posts dated 6.6.88 wherein it has been stipulated that the casual labourers, Part-time or full-time, should be considered for appointment to Extra Departmental posts



giving them preference, if they had completed one year of service. The fact that the applicant has been continuously working for more than ten years is not disputed and it is evident from the pleadings. The contention of the respondents that the applicant is not entitled to the preference as there is no record seen in the office appointing the applicant as Part-time Casual Labour and showing his sponsorship by the Employment Exchange, is untenable, for the applicant had been admittedly working in that office as a Part-time Sweeper for more than a decade. Such a long standing of an agent cannot be termed as a stop gap arrangement. Hence we find that the rejection of the candidature of the applicant by A7/A7(a) is arbitrary, irrational and wholly unjustified and that the appointment of R-3 ignoring the preferential claim of the applicant is also unsustainable.

6. In the light of what is stated above, we set aside the impugned orders A7, A7(a) and A9 and direct the respondents to consider the applicant for appointment to the post of EDMC, Keezhara within a period of one month from the date of receipt of copy of this order. No costs.

Dated the 28th November, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. NARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: A true copy of the notice dated 29.12.2000 inviting applications to the post of EDMC, Keezhara.
2. A-2: A true copy of the application submitted by the applicant.
3. A-3: A true copy of the letter No.B2/3/Rlg. dated 7.9.2000 issued by Superintendent of Post Office, Kannur Division, Kannur Division, Kannur containing copy of Directorate letter No.17-141/88 Ed. & Trg. dated 6.6.1988.
4. A-4: A true copy of the letter No.Rectt/27-1/iv dated 31.3.1992 issued by Assistant Director (Recruitment).
5. A-5: A true copy of the order of this Hon'ble Tribunal dated 5.7.2000 in O.A.No.329/2000.
6. A-6: A true copy of the communication dated 17.1.2001 issued by the 1st respondent to the applicant.
7. A-7: A true copy of the letter dated 12.12.2001 (subsequently correct 12.2.2000).
8. A-7a: A true copy of the letter dated 15.2.2001.
9. A-8: A true copy of the postal envelope in annexure A7 letter was communicated to the applicant.
10. A-9: A true copy of the order No.MC/BO-20 dated 12.2.2001 issued by the 1st respondent appointing the 3rd respondent as EDMC, Keezhara.

Respondents' Annexures:

1. R-1: True copy of Order No.MC/BO-20 dated 23.2.2001 issued by the 1st respondent.
2. R-2: True copy of DGP's letter No.47-4/96-SPB 1 dated 28.5.97 issued by the Department of Posts and communicated to all Heads of Postal Circles.
3. R-3: True copy of letter No.MC/BO.20 dated 22.1.2001 issued by the 1st respondent to the 4th respondent.
4. R-4: True copy of the letter NO.165 dated 29.1.2001 issued by the 4th respondent to the 1st respondent.

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