

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 236 of 2001

Friday, this the 8th day of November, 2002

CORAM

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

1. Gopinath Rayaroth,
S/o Kunjukrishnan Pillai,
EDMC, Kadameri PO, Villiappally Sub Post,
Vadakara - 673 542, residing at Kocheri,
Villappally PO, Vadakara.Applicant

[By Advocate Mr. M.R. Rajendran Nair]

Versus

1. Assistant Superintendent of Post Offices,
South Sub Division, Vadakara.
2. Superintendent of Post Offices,
Vadakara Division, Vadakara.
3. The Chief Post Master General,
Kerala Circle, Trivandrum.
4. Union of India represented by the
Secretary to Government of India,
Ministry of Communications, New Delhi.Respondents

[By Advocate Mr. Sunil Jose, ACGSC]

The application having been heard on 8-11-2002, 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 EDMC, Kadameri with effect from 10-3-2000, coming to know that a vacancy in the post of EDSPM, Edacheri North would arise and that without notifying the vacancy to all the Sub Divisions only some of the ED officials from Vadakara North Sub Division alone had been called for the interview held on 22-2-2001, submitted a representation on 23-2-2001 to the Superintendent of Post Offices, Vadakara Division requesting that he may also be considered for transfer and appointment to the post of EDSPM,

Edacheri North. Finding no response to this and apprehending that his candidature would not be considered, the applicant filed this Original Application for a declaration that he is entitled to be considered for appointment by transfer to the post of EDSPM, Edachery North and for a direction to consider his candidature for such appointment by transfer. It is alleged in the Original Application that the vacancy was not notified in all Sub Divisions and, therefore, the applicant could not put forth his candidature on time.

2. Respondents in their reply statement contend that as there was no rule or instructions requiring notification of the vacancy to all the Divisions/Sub-divisions, the requests of working ED Agents received were considered and the selection was finalized on 22-2-2001 and therefore, the candidature of the applicant who applied after the selection was over could not be considered.

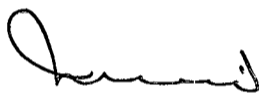
3. We have gone through the pleadings and have heard the learned counsel on either side. The undisputed fact of the case is that on 22-2-2001 the process of selection was over and the applicant applied only on the next date. Learned counsel of the applicant argued that the applicant has been deprived of the opportunity to participate in the selection. If the vacancy was notified in the Sub-divisions it would have been came to know of the exist of the vacancy, argued the counsel. In the orders and instructions regarding appointment of the ED Agents and grant of transfer to ED Agents, there was no instruction that the vacancy in ED posts should be notified in all Divisions and Sub-divisions for enabling the working ED Agents to apply for transfer. The only provision was that when a working ED Agent is willing to work against another ED post falling vacant, he could be considered for appointment by



transfer if he is eligible. Respondents in this case considered the requests of all working ED Agents who applied for transfer and made a selection on 22-2-2001. Had the applicant also applied for the selection to the post on time, he would have been considered in that selection process. As there was no rule or instruction as on the relevant date which required a notification of the vacancy to all Divisions/Sub-divisions, the action of the respondents in not doing so cannot be faulted for any reason.

4. In the light of what is stated above, finding no merit, we dismiss the Original Application leaving the parties to bear their respective costs.

Friday, this the 8th day of November, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexure:

1. A-1: True copy of the representation submitted by the applicant to the 2nd respondent.

Respondents' Annexure:

1. R-1: True copy of the letter No.40-9/82-Pen dt.Nil with covering letter dated 9.1.84 issued by the Director Postal Services, Calicut Region.

npp
28.11.02