

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No. 24/2000

Monday, this the 11th day of March, 2002.

CORAM

HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. Bharathiya E.D. Employees Union,  
represented by its Secretary,  
K.M. Varghese,  
Idukki Division, Idukki.
2. P.J. John,  
Extra Departmental Delivery Agent,  
Amaravathy Post Office,  
Kumily.

Applicants

[By Advocate Ms. K. Indu]

Vs.

1. The Postmaster General,  
Central Region,  
Office of the Postmaster General,  
Ernakulam.
2. The Superintendent of Post Offices,  
Idukki Division, Idukki.
3. V.K. Thankappan,  
Extra Departmental Mail Carrier,  
Machiplayu, Adimali,  
now working as Postman (Provisional),  
Munnar Kerala Post Office.
4. Union of India rep. by its Secretary,  
Ministry of Communications,  
New Delhi.

Respondents

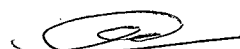
[By Advocate Mr C. Rajendran, Sr.CGSC for R 1,2 & 4]  
[By Advocate Mr P.C. Sebastian for R-3]

The application having been heard on 30.1.2002, the  
Tribunal delivered the following order on 11.3.2002.

O R D E R

HON'BLE MR K.V. SACHIDANANDAN, JUDICIAL MEMBER

The 1st applicant is the Union protecting the interest  
of the members in their service, belonging to Extra  
Departmental Cadre, and the 2nd applicant is an Extra  
Departmental Agent. It is averred in the application that the  
2nd applicant had entered into service in the year 1971 as an



Extra Departmental Delivery Agent and his grievance is that his seniority has been overlooked by the 2nd respondent and considered the 3rd respondent who is junior to him for promotion to the cadre of Postman in the Idukki Division. Aggrieved by the said decision, the applicants have filed this O.A. under Section 19 of the Administrative Tribunals Act of 1985 before this Tribunal seeking the following reliefs:

- "(i) to set aside the selection made as per Annexure A-2 to the post of Postman on the basis of length of service in the EDA cadre at Idukki Division,
- (ii) to declare that the 2nd applicant being senior to the 3rd respondent is entitled to be considered for promotion and posting as Postman, in the vacancy earmarked for outsider EDAs on the basis of length of service as per Annexure A-2 in the Idukki Division; and
- (iii) to issue such other direction, order or declaration as this Hon'ble Tribunal deem fit and proper in the facts and circumstances."

2. It is further contended that Extra Departmental Agents are provided with promotional avenue to the cadre of Postman, of which 50% of the vacancies are earmarked to Extra Departmental Agents and the remaining 50% to the departmental candidates namely group D officials. 50% of the vacancies earmarked for Extra Departmental Agents is further divided into two equal halves, one to be filled by Extra Departmental Agents on the basis of seniority and the other half on the basis of merit in the common departmental examination to be held on Divisional level. The unfilled vacancies in the departmental quota are transferred to Extra Departmental Agents on merit quota and the respondents are liable to follow the reservation policy and its restrictions which should not be exercised in an arbitrary manner. The selection to the post of Postman has been notified by the 2nd respondent as per Notification dated 15.3.99 (Annexure A-1) and the results of the examination held



on 9.5.99 were published on 29.6.99 as per Memo dated 29.6.99 (Annexure A-2) wherein it is seen that the 3rd respondent who is from the lower level of seniority has been selected without showing the seniority position against the one vacancy earmarked for outsider Extra Departmental Agents on the basis of length of service. There are several seniors above the 3rd respondent and even senior OBCs and hence it is said that the selection was made in an arbitrary manner. In the seniority list of ED Agents as on 1.1.98 (Annexure A-3), the position of the 2nd applicant is at Sl.No.36 whereas the 3rd respondent is at Sl.No.42. It is further averred that the 2nd applicant who belongs to OBC community and who is senior may not have any opportunity to appear and participate in the Recruitment examination in future. Highlighting all these aspects, the 2nd applicant filed a representation dated 16.12.99 (Annexure A-4) before the 2nd respondent along with the translation of which is Annexure A4(a).

3. Official respondents as well as private respondent filed separate reply statements. They have contended that the 3rd respondent was seniormost ED Agent who fulfilled all the conditions for selection on the basis of length of service and found fit by the Departmental Promotion Committee held on 28.6.99 and his selection was strictly according to seniority, eligibility condition of age, educational qualification, service and not applying any relaxation applicable to reserved category candidates though he belongs to OBC category. The reservation has not exceeded 50% of the vacancies as selection of V.K. Thankappan was not on community consideration and hence he has been appointed in the cadre of Postman with effect from 27.7.99. Respondents 1 & 2 contended that Annexure A-4 representation was examined and considered and that the




selection was in order and the 2nd applicant did rank higher in merit than the selected candidate. The selected candidate is P.S. Sajimon (OBC). In the O.A. the applicants are challenging the selection of V.K. Thankappan, the 3rd respondent, against the vacancy for 'unreserved' category on the basis of length of service. For the unreserved quota of vacancies the applicant was considered, but not selected, as he did not satisfy the eligibility conditions. Therefore, this application is devoid of any merit. That apart, the 1st applicant is not a recognized union by the department to represent the interest of ED employees. Earlier O.A.798/99 was filed before this Tribunal by the Bharathiya Postal Employees Union Class III and another ED. Agent against the selection of VK Thankappan which was dismissed by order dated 26.10.99 (Annexure R-A). The applicant has not made out any ground to sustain the reliefs sought by them. The applicant himself consisting with one P.N. Soman who is admittedly senior to him, had not raised any objection for the selection. As per Annexure A-3 there are some other officials senior to the applicant, and he is not the seniormost. Therefore, the selection of the 3rd respondent cannot be challenged. The 2nd applicant was admitted for the test relaxing the age condition admissible for OBC category. He did not rank higher to the candidate selected against the vacancy earmarked for OBC on the basis of merit in the test. The name of candidate selected in the category was P.S.Sajimon who is admittedly junior to applicant. The 2nd applicant and Thankappan cannot be equated since the selection was made from different category and Thankappan, who fulfilled all the eligibility conditions, was selected from unreserved category by the recommendations of the DPC.



4. The 3rd respondent specifically denied the locus standi of the 1st applicant and the 2nd applicant under OBC quota to file this O.A. In para 4 of the reply statement he has specifically denied that the 2nd applicant does not belong to OBC community due to the fact that the application is not supported by any documentary proof for the same. The 2nd applicant as evidenced by his name, is a Christian which is not included in the list of SC/ST and OBC published as per the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act 1976. As regards his allegation that the 3rd respondent has been considered for promotion by the 2nd respondent overlooking the 2nd applicants' seniority, it is submitted that the 3rd respondent was considered on the basis of the recommendation of a duly constituted DPC, and thus selected in accordance with the statutory rules in the unreserved category. The applicant was over aged and was thus ineligible to be considered against the only one vacancy in seniority quota earmarked for OBC. Hence, the application is only to be dismissed.

5. We have heard the counsel for the parties and perused the materials and documents available on record. The contention of the respondents that the 1st applicant has no locus standi to maintain this application is not correct. The Bharathiya E.D. Employees Union, the 1st applicant is constituted mainly to protect the interest of the ED Agents and hence they have an interest only in such cases. Therefore, the 1st applicant's locus standi cannot be questioned. They really represent the ED Agents and even if they are not recognized, we hold that the 1st applicant can be a party in this application in a representative capacity though not in a public interest concept. This is more so since the aggrieved person, 2nd applicant, is in the party array.



6. It is an admitted fact that the 3rd respondent, V.K. Thankappan was considered against the vacancy earmarked for unreserved category on the basis of length of service and merit whereas, the 2nd applicant was considered on the OBC quota against which another person named P.S. Sajimon (OBC) was selected. Therefore, the applicant has no locus standi to challenge the selection of the 3rd respondent which is that of a different category. The contention of the 3rd respondent that the 2nd applicant will not come under the OBC category cannot hold good since the department has already scrutinised and cleared his name and admitted him to the selection process against reserved category by even giving relaxation of age. The mere fact that he is a Christian does not debar him from being an OBC, as per rules.

7. We have also closely scrutinised the legal position and is of opinion that the constitutional provisions of Article 14, and 16 has not been violated by the official respondents in any manner by selecting the 3rd respondent. The applicants have not substantiated the illegality and irregularity or mala fides in the mater of selection.

8. In the conspectus of facts and circumstances, we find no merit in this Original Application and therefore, dismissed. There will be no order as to costs.

Dated the 11th of March, 2002.



K.V. SACHIDANANDAN  
JUDICIAL MEMBER



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

P.

I N D E X

APPLICANT'S ANNEXURE

- A-1 True copy of the Notification No.B2/2/Exam.99 dated 15.3.99 issued by the 2nd respondent.
- A-2 True copy of the Notification No.B2/2/Exam.99 dated 29.6.99 issued by the 2nd respondent.
- A-3 True copy of the relevant portion of the seniority list of ED Agent as on 1.1.98.
- A-4 True copy of the representation dated 16.12.99 submitted by the 2nd applicant to the 2nd respondent.
- A-4(a) True copy of the English Translation of Annexure A-4.

RESPONDENTS ANNEXURE

- RA Photo copy of the order in O. A.798/99 dated 26.10.99 passed by this Tribunal.
- R3(a) True copy of Memo No.GL-12 dated 26.7.99 issued by the Sub Divisional Inspector (Postal) Thodupuzha Sub Division.