

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

MP.

Dy.No. ~~Q.A.~~ 56/87

K. Vijayalakshmi

Applicant

Vs.

1. Union of India represented by
Director Général of Posts,
New Delhi

2. Superintendent of Post Offices,
Tirur

3. Sub Divisional Inspector,
Ponnani Postal Sub Division
Ponnani

4. T. Sujatha,
D/o Gopalakrishnan Nair
Malayath Thazhathethil
Thekken Kutoor,
Malappuram District.

Respondents

K. Rama Kumar

Advocate for the
applicant

P. V. Madhavan Nambiar

Advocate for the
respondents

CORAM

Hon'ble Shri S. P. Mukherjee,
Administrative Member

&

Hon'ble Shri G. Sreedharan Nair
Judicial Member

(Order pronounced by Hon'ble Shri G. Sreedharan Nair,
Judicial Member on 19.3.87)

Heard counsel of the applicant. The application
is admitted.

2. Copies of the application and the documents have
been served on the Sr. Central Government Standing
Counsel.


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3. Misc. Petition No. 43/87 to dispense with production of copy of the impugned order allowed.

4. Counsel of the applicant prays for the interim relief that is claimed in the application, to stay the appointment of the fourth respondent as Extra Departmental Branch Postmaster, Ananthavoor. The prayer is opposed on behalf of the Sr. Central Govt. Standing Counsel. It is submitted that he wants time to collect the details.

5. Counsel of the applicant submits that in case the order appointing the fourth respondent is implemented, the applicant will be outsted and as such urgent orders are required. In view of the fact that the applicant is holding the post at present, w.e.f. 28.11.85, and in view of the averments in the application challenging the selection of the fourth respondent, we hereby direct the respondents 1 to 3 not to implement the order of appointment of the fourth respondent as Extra Departmental Branch Postmaster, Ananthavoor, in case, the order has not already been implemented and the fourth respondent has not assumed charge of the post. This order will be in force till 27.3.87. In the meanwhile, the applicant will ^{cause the issue of} ~~issue~~ urgent notice to the fourth respondent. It is open to respondents 1 to 3 to file

counter if any as regards the claim for interim relief by then. The question of continuance of the interim relief will be heard and decided on 27.3.87.


(G. Sreedharan Nair)
Judicial Member


(S.P. Mukherjee)
~~Judicial~~ Member
Administrative

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CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

Tuesday, the tenth day of November, One thousand
nine hundred and eighty seven.

PRESENT

The Hon'ble Justice Shri G. Ramanujam,
Vice Chairman

&

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

ORIGINAL APPLICATION NO. 241 OF 1987

K. Vijayalakshmi ... Applicant

vs

1. Union of India, represented by
Director General of Posts,
New Delhi.
2. Superintendent of Post Offices,
Tirup.
3. Sub Divisional Inspector,
Ponnani Postal Sub Division,
Ponnani.
4. T. Sujatha,
D/o Gopalakrishnan Nair,
Malayath Thazhathethil,
Thekken Kutoor,
Malappuram district.

Respondents

M/s. K. Ramakumar, E.M. Joseph &
Roy Abraham

Advocates for
the applicant

Mr. P.V. Madhavan Nambiar,

Sr. Central
Govt. Standing
Counsel for
Respondents
1 to 3

O R D E R

(Pronounced by Hon'ble Shri C.Venkataraman,
Administrative Member)

This has been filed by one K. Vijayalakshmi, who is aggrieved at her not being selected as an Extra Departmental Branch Postmaster, EDBPM for short, Ananthavoor and at the selection of the 4th respondent instead of her for the said post. The post of EDBPM, Ananthavoor fell vacant from 22-11-1985 when the Branch Postmaster was put off duty pending disciplinary proceedings initiated against her. In that place, the applicant was appointed as a temporary measure. She was specifically told in order dated 28-11-1985 that her provisional appointment would be tenable till the disciplinary proceedings against the previous branch postmaster were finally disposed of and in case it was decided not to take her back into service, till regular appointment was made. The applicant accepted the conditions stipulated in the provisional appointment letter and signed the duplicate copy thereof and returned

it to the 3rd respondent. The previous branch postmaster was dismissed from service after the disciplinary proceedings and thereafter action was initiated to fill up the post of EDBPM, Ananthavoor on a regular basis. After going through a process of selection in which the applicant was also considered, the 4th respondent was selected and appointed. The applicant has challenged the appointment of the 4th respondent and the prayer herein is:

(i) To set aside the appointment order of the 4th respondent as illegal; and

(ii) to direct the respondents 1 to 3 to appoint the applicant on a regular basis as EDBPM, Ananthavoor.

The learned counsel for the applicant stated before us that the 4th respondent did not ^{reply} ~~specify~~

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the residence qualification which is essential for appointment as EDBPM. The said respondent is a native of Thekken Kuttoor which is 8 KMs away from Ananthavoor. She had also no previous experience as compared to her. The counsel stated that the applicant fulfilled the residence qualification as she came from Ananthavoor and had also worked as EDBPM not only in the same post office for about 14 months but also prior to that in various leave vacancies in different places. The counsel contended that a candidate like the applicant possessing higher qualifications was ignored and the 4th respondent had been selected. This was an act of grave irregularity and an instance of mala fide exercise of power. Terminating the services of the applicant consequent on the appointment of the 4th respondent is to be not only regarded/as arbitrary but also as an unfair discrimination. Inviting reference to the Supreme Court's decision in Manager, Government Press vs. Belliappa

AIR 1979(SC)429, the counsel prayed that the relief sought for be allowed.

The counsel for the respondents pointed out that the applicant's appointment in the first instance was as a stop-gap measure. It did not confer on her any right to continue in that appointment. When the previous incumbent of the post was dismissed from service, action was initiated to fill up the post on a regular basis. Nominations were called for for this purpose from Tirur Employment Exchange. Six candidates were sponsored by the Employment Exchange, which included the applicant and the 4th respondent. After going through the formalities such as written test, interview, verification of residence condition, income qualification etc., the 4th respondent was selected for the post. The learned counsel for the respondents

further stated that the applicant had no independent residential address in Ananthavoor and that she had given her address as C/o M.P.Thammi, who is a delivery agent in that post office. Her ration card also indicated that she had registered it at Naduvattom. Her income certificate was also from Naduvattom village officer. Besides, her residence particulars were got verified through the 3rd respondent who in turn reported that the applicant is permanently residing at Naduvattom. As against this, the 4th respondent was a resident of Ananthavoor, she having married one Sivaraman on 28-9-1983 from that village. Her name also figures in the ration card at Ananthavoor. In view of the applicant not satisfying the residence qualification, she was not entitled for selection. Besides, she did not have any superior qualification which merited consideration. The counsel further refuted the contention that the Supreme Court's decision in Manager, Government Press v. Belliappa

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will be applicable to this case. Here, the applicant's appointment in the first instance was not made as a temporary Government servant. It was only a stop-gap arrangement, pending regular appointment on the basis of a selection. He concluded that the appointment of the 4th respondent made after proper selection, after following the prescribed procedure, is not open to challenge by the applicant, who had no right to get appointed as an EDBPM.

According to the prescribed procedure by the P. & T. Department for recruitment of Extra Departmental Agents, one of the essential conditions is the residence [✓] qualification. The extra departmental agent must be a ^{permanent ✓} resident of the village where the post office is located. In this case, the respondents had conducted the necessary enquiries and had come

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to the conclusion that the applicant was not a resident of Ananthavoor whereas the 4th respondent, after her marriage, was a resident of the said village. Both of them had appeared for the selection. The rules for recruitment do not state that any weightage is to be given for past experience which a person possesses by officiating in leave vacancies or by virtue of having worked as a stop-gap arrangement.

Therefore, the applicant had to be considered with others without any weightage being given to the fact that she had previously worked in that post for sometime. The competent authority had selected the 4th respondent and one of the factors which weighed against the applicant was that she did not possess the essential residence qualification. In the light of the above, we do not find

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anything irregular in the selection of the 4th respondent and accordingly the prayer for setting aside the selection of the said respondent has to fail. The applicant also did not have an automatic right to be appointed as EDBPM on the basis of her past experience. Since she did not get selected after being considered for such selection, her prayer for a direction to appoint her also fails.

Accordingly, the application is dismissed.


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(C. VENKATARAMAN)
ADMV. MEMBER


(G. RAMANUJAM)
VICE CHAIRMAN

10-11-1987

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