

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 244 of 2001

Thursday, this the 4th day of October, 2001

CORAM

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

1. K.K. Haridasan,
S/o late K.K. Krishnan,
Extra Departmental Delivery Agent,
Avittathur BO, residing at
Kattilaparambil, Madaikonam PO,
Irinjalakuda.Applicant

[By Advocate Mr. M.A.Shihabuddin for Mr. O.V.Radhakrishnan]

Versus

1. Superintendent of Post Offices,
Irinjalakuda Division, Irinjalakuda.
2. Post Master General,
Central Region, Kochi.
3. Chief Post Master General,
Kerala Circle, Thiruvananthapuram.
4. Director General, Posts, New Delhi.
5. Union of India, represented by its
Secretary, Ministry of Communication,
New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 4-10-2001, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, a member of OBC, is working as Extra Departmental Delivery Agent, Avittathur Branch Post Office and his name figures at Serial No.74 in the gradation list of Extra Departmental Agents of Irinjalakuda Division (Annexure A-1). In the year 1998, three vacancies in Group 'D' arose to be filled up by appointment of Extra Departmental Agents on the basis of service. The two general vacancies were filled up by

appointment of two persons. Towards one vacancy falling to the quota of OBCs, one Smt. V.A.Pathukutty at Serial No.52 in the gradation list was selected. However, she did not accept the offer of appointment. The Superintendent of Post Offices on 22-12-2000 sent a letter (Annexure A-3) to the said Smt. Pathukutty asking her to report for duty on the Group 'D' post latest by 31-12-2000, making it clear that failure to do so entails forfeiture of her chance for the appointment and informing her further that it may not be possible to appoint her in the next vacancy since she was not the seniormost. However, Smt.Pathukutty did not join. Serial No.53 in the seniority list, who is also a member of the OBC joined the post of Postman. Therefore the applicant, who is the next person belonging to OBC, sent a letter dated 5-2-2001 (Annexure A-5) to the Superintendent of Post Offices requesting that as Smt.Pathukutty has declined to accept the appointment as Group 'D', he being the next person in the seniority belonging to OBC category to be appointed might be appointed on that post. The Assistant Superintendent of Post Offices informed the applicant that the matter has been referred to the Regional Office. However, finding no further informations, he filed this Original Application for a direction to the 1st respondent to consider him for promotion to Group 'D' against the vacancy as Smt.Pathukutty declined to accept the appointment and to take expeditious steps to hold a review DPC to consider him for inclusion in the panel of Extra Departmental Agents who are found fit for promotion to Group 'D' posts and to promote him as Group 'D' with all consequential benefits.

2. Respondents in the reply statement contend that the vacancy falling to OBC category was filled by appointment of Smt.V.A.Pathukutty, who joined on 23-10-2000 at 10.00 AM and

left after 3-4 days. Since Pathukutty has left the job, respondents contend that the post has now to be filled up by a general candidate.

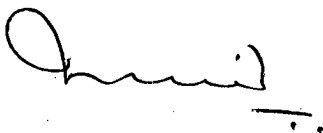
3. By an interim order dated 24-4-2001, taking note of the fact that even as on 22-12-2000 the Superintendent of Post Offices had addressed Smt.V.A.Pathukutty stating that she had not reported for duty on the Group 'D' post, the respondents were directed to appoint the applicant on the Group 'D' post provisionally subject to further direction, after fulfilling the pre-appointment formalities. We are informed that pursuant to the above interim order the applicant has been appointed and he is working on the Group 'D' post now.

4. We have heard Sri M.A. Shihabuddin for the applicant and Sri C. Rajendran, SCGSC for respondents and have perused the pleadings and materials placed on record. It is evident from A-3 letter written by the Superintendent of Post Offices, Irinjalakuda to Smt. V.A.Pathukutty, BPM, Erayamkudi that Smt.Pathukutty did not report for duty as Group 'D' though her name was in the select list for appointment to that post in the OBC quota, that she had by her letter dated 9-11-2000 stated that she was not able to accept the appointment due to illness and had requested that her case may be considered next time. It is also evident that the Superintendent of Post Offices informed her that if she failed to report for duty as Group 'D' latest by 31-12-2000, her name would be removed from the select list. It is further evident from the pleadings that on or after 31-12-2000 Smt.Pathukutty did not report for duty and that the post remained vacant. It was under these circumstances the interim order was issued directing the respondents to appoint the applicant provisionally subject to further directions and on completion of the pre-appointment

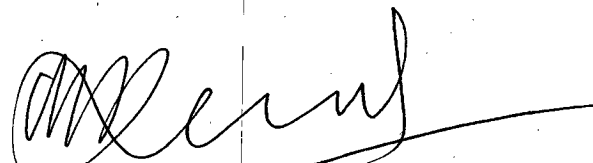
formalities. Respondents have not been able to produce any record to show that Smt.Pathukutty joined the post of Group 'D' falling to the OBC quota and that she later resigned. Since it is evident from A-3 that Smt.Pathukutty though was included in the list did not report for duty despite directions in that behalf and that the post remained unfilled, we are of the considered view that the respondents are bound to appoint the applicant who belongs to the OBC category and the next person in that category in the seniority list. The contention that the OBC slot has been utilized by appointment of Smt.Pathukutty has to be rejected in view of what is stated in Annexure A-3.

5. In the light of what is stated above, the Original Application is allowed. Since the applicant has already been appointed on the Group 'D' post, we direct the respondents to treat his appointment as regular. No costs.

Thursday, this the 4th day of October, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

ak.

APPENDIX

1. Annexure A1: True extraxt of the Seniority List of ED Agents as on 1.1.1999 Letter No.88/7/EDAs dated 4.5.1999 of the 1st respondent.
2. Annexure A2: True copy of the Memo No.82/Rectt/Gr.D/97-2000-IJK dated 17.10.2000 of the respondent with English translation.
3. Annexure A3: True copy of the Memo No.82/Allotment/Gr.D dated 22.12.2000 of the 1st respondent.
4. Annexure A-4: Copy of the letter No.44-31/87-SPB-I dated 28.8.1990 of the 4th respondent.
5. Annexure A5: True copy of the representation dated 5.2.2001 of the applicant to the 1st respondent with English translation.
6. Annexure A-6: True copy of the Memo No.DA/Avittathur dated 12.2.2001 of the Asst. Supdt. of POs Irinjalakuda.
7. Annexure A-7: True copy of the Judgement in O.P. No. 25172/98 dated 30.3.2000 of the Hon'ble High Court of Kerala.
8. Annexure A8: True copy of letter No.66-82/87-SPB I dated 20.7.2000 of the Director(Staff) New Delhi.
9. Annexure A9: True copy of the Letter No.66-82/87-SPB I dated 21.9.2000 of the Director(Staff) New Delhi.
10. Annexure A-10: True copy of the Letter No.Rectt/13-2-2000 dated 6.10.2000 of the 3rd respondent.

.....