

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 245 of 2012

Tuesday, this the 01st day of January, 2013

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

V.K. Somarajan Pillai,
S/o. V.S. Krishna Kurup,
Aged 45 years,
Gramin Dak Sevak Branch Postmaster,
Ulanad P.O, Kulanada,
Pathanamthitta District : 689 503
Residing permanently at Viruthethu
Kizhakkethil, Njettoor, Kulanada,
Pathanamthitta : 689 503

... Applicant.


(By Advocate Mr. M.R. Hariraj)

v e r s u s

1. Union of India represented by the
Secretary to Government of India,
Department of Posts,
New Delhi : 110 001
2. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram : 695 033
3. Superintendent of Post Offices,
Pathanamthitta Postal Division,
Pathanamthitta : 689 645
4. V.B. Usha, Postman,
Naranganam Post Office,
Pathanamthitta : 689 642

(By Advocates Mr. A.D. Raveendra Prasad, ACGSC for R1-3 &
Mr. A.N. Rajan Babu for R4)

This O.A having been heard on 11.12.2012, the Tribunal on 01.01.13
delivered the following:



ORDER

Hon'ble Mr. K. George Joseph, Administrative Member -

The applicant who is working as Gramin Dak Sewak Branch Postmaster (GDSBPM) had appeared in the Postman examination for 12 vacancies of 2009 held on 20.12.2009. 08 vacancies were filled up by UR candidates, 01 by OBC and 01 was earmarked for sports quota and 02 for seniority quota. The marks secured by the last UR candidate was 120.5. The marks obtained by the applicant, a UR candidate, was only 119.5. Though he had secured more marks than the OBC candidate, he was not selected under the UR quota. Aggrieved, he has filed this O.A for the following reliefs:

- (i) To quash Annexure A-8;
- (ii) To call for the records leading to appointment of 4th respondent as Postman pursuant to Annexure A-1 and quash the same;
- (iii) To direct the respondents 1 to 3 to consider the applicant for appointment as Postman to all vacancies available in 2009 based on his marks in the examination conducted as per Annexure A-1 without applying any reservation to OBC in preference to any other candidate with lesser marks than him and to grant him appointment with all consequential benefits including arrears of pay and allowances;
- (iv) Grant such other reliefs as this Hon'ble Tribunal may deem fit and proper;
- (v) Grant the costs of this application.

2. The applicant contended that the appointment to the post of Postman from GDS is by promotion, which is now settled. Therefore, no reservation is permissible for OBC. Annexure A-8 order rejecting the claim of the applicant on the ground that no instructions have been received to the effect that reservation need not to be extended to the OBC candidates in the matter of



promotion of GDS to the post of Postman, amounts to utter disregard to the binding judicial precedents. There are 03 vacancies remaining unfilled. There is no physically handicapped candidates available. This post ought to be deserved and granted to the applicant. There is no reservation for sports quota in promotion either. He relied on the order of this Tribunal dated 14.02.2011 in O.A. No. 232/2010 to buttress his argument that reservation will not apply to OBC category in promotion.

3. The official respondents in their reply statement submitted that the order of this Tribunal in O.A.No.232/2010 was challenged by filing OP (CAT) No. 1228/2011, which has been disposed of by the Hon'ble High Court of Kerala vide its common judgement dated 20.12.2011. In the said judgement, even though the Hon'ble High Court has taken the stand that appointment of Gramin Dak Sevaks to the cadre of Postman is by way of promotion thereby rendering the practice of giving OBC reservation irregular, it has been made clear that the said judgement would be extended only to those candidates who were applicants before the CAT and who were respondents in the present Writ Petitions. Although the applicant had obtained more marks than the OBC candidate selected, he could not be selected because he belongs to UR category as the post was reserved for OBC candidate.

4. The 4th party respondent in his reply statement submitted that he was appointed as per rules of reservation. He also contended that his appointment from GDS to Postman is as per direct recruitment and not by promotion.



5. We have heard Mr. M.R. Hariraj, learned counsel for the applicant and Mr. A.D. Raveendra Prasad, learned ACGSC for respondents Nos.1 to 3 and Mr. A.N. Rajan Babu, learned counsel for respondent No.4 and perused the records.

6. Whether the method of recruitment from GDS to the cadre of Postman through departmental examination is merit based selection on promotion or not, was adjudicated in O.A. No. 858/2006. In the order dated 18.07.2007 in the said O.A, this Tribunal gave following finding :

"In the light of such a reading of the Recruitment Rules keeping the entire scheme of promotion in view, we are inclined to hold that the method of recruitment of ED Agents thorough the departmental examination has to be construed as merit based selection on promotion only."

It was also found that there can be no reservation for OBC in promotion. In OP (CAT) No. 1501/2011 and WP (C) No. 22342/2010, the Hon'ble High Court of Kerala has confirmed that the appointment of the GDS to the cadre of Postman is by way of promotion. Therefore, the binding precedent for this Tribunal is that the appointment from the GDS to the cadre of Postman is by way of promotion and not by direct recruitment. This settled legal position is reiterated in a number of cases and the respondents have complied with the directions accordingly. The contention of the respondents is that the Hon'ble High Court has made clear that the judgement confirming the above legal position would be extended only to those candidates who were applicants before the CAT or the Hon'ble High Court. But there is no bar on applying the law as confirmed by the Hon'ble High Court to the cases that will arise. If the appointment from GDS to the cadre of Postman is by way of promotion, then the principle of reservation for OBC in the cadre of Postman will not arise.



None of the physically handicapped candidates qualified in the examination. There is no contention on the part of the respondents that the sports quota is filled up either. The applicant who got 119.5 marks and is just below the UR candidates who got 120.5 marks can be posted in an available vacancy. Therefore, the O.A is allowed as under.

7. Annexure A-8 dated 06.03.2012 is quashed. The respondents Nos. 1 to 3 are directed to consider the applicant for appointment to the cadre of Postman against the vacancies available in 2009 based on his marks in the examination conducted as per Annexure A-1 and grant him appointment with all consequential benefits, excluding arrears of pay and allowances upto the date of joining as Postman, within a period of four months from the date of receipt of a copy of this order. No order as to costs.

(Dated, the 01st January, 2013)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

C.P/180/00001/2014 IN O.A. NO. 245 OF 2012

Wednesday, this the 16th day of April, 2014

CORAM:

**HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Ms. MINNIE MATHEW, ADMINISTRATIVE MEMBER**

V.K.Somarajan Pillai
Gramin Dak Sevak
Branch Post Master
Ulanadu PO, Kulanada
Pathanamthitta District – 689 503
Residing at Viruthethu Kizhakkethil, Njettoor
Kulanada, Pathanamthitta – 689503

... Petitioner

(By Advocate Mr. M.R.Hariraj)

versus

1. Padmini Gopinath
Secretary to Government of India
Department of Posts
New Delhi – 110 001

2. Shanthi S Nair
Chief Post Master General
Kerala Circle, Thiruvananthapuram – 695 033

3. C.Sivadasan Pillai
Superintendent of Post Offices
Pathanamthitta Postal Division
Pathanamthitta – 689 645

... Respondents

(By Advocate Mr.A.D.Raveendra Prasad, ACGSC)

The application having been heard on 16.04.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Shri C.Sivadasan Pillai, Superintendent of Post Offices, Pathanamthitta Postal Division, Pathanamthitta (Respondent No.3) is present as directed.



: 2 :

2. Learned counsel for the petitioners submits that nothing survives for consideration in this case since the respondents have complied with the directions issued by this Tribunal in the above Original Application. It is brought to our notice that the competent authority has issued order of appointment in favour of the petitioner.

3. The above submission is recorded. The Contempt Petition is closed.

Dated, the 16th April, 2014


MINNIE MATHEW
ADMINISTRATIVE MEMBER


JUSTICE A.K. BASHEER
JUDICIAL MEMBER

VS