

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.245/2001

Tuesday, this the 5th day of June, 2001.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.K.Mohanan,
Full Time Casual Labourer,
Postal Stores Depot,
Thrissur.

- Applicant

By Advocate Mr O.V. Radhakrishnan

Vs

1. Superintenden,
Postal Stores Depot,
Thrissur-680 004.
2. Senior Superintendent of Post Offices,
Thrissur Division,
Thrissur-680 001.
3. Union of India represented by
its Secretary,
Ministry of Communication. - Respondents

By Advocate Ms P Vani, ACGSC

The application having been heard on 5.6.2001, the Tribunal on the same day delivered the following:

O R D E R

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

This application has been filed by the applicant, who is a Full Time Casual Labourer, Postal Stores Depot, Thrissur, aggrieved by the action of the respondents in throwing open the vacancy of Group'D' available in the Postal Stores Depot to the ED Agents of the neighbouring Division, while as per

the Recruitment Rules and instructions on the subject, it could be done only if eligible casual labourers, full time or part-time are not available. The facts which are not in dispute can be briefly stated thus: The applicant who commenced service as part-time Casual Labourer in the Postal Stores Depot, Thrissur on 6.2.92, was made full time with effect from 10.5.96. He was born on 21.6.62. Finding that the first respondent issued a notification dated 18.10.2000 inviting application from casual labourers to fill up the post of Group'D' vacancies in the Postal Stores Depot, Thrissur who are within the age limit of 18 and 25, the applicant made a representation stating that such age limit is not applicable to him and seeking permission to appear in the departmental test. This request of the applicant was turned down by the impugned order A-7 dated 5.1.2001 stating that the applicant had already crossed the prescribed age limit. Thereafter, the first respondent issued A-8 notification throwing open the vacancy of Group'D' in the Postal Stores Depot, Thrissur to the ED Agents of the neighbouring division. Aggrieved by that the applicant has filed this application seeking to set aside the impugned orders A-4, A-7 and A-8 and for a declaration that the applicant is eligible to appear for the departmental test for appointment to Group'D' without regard to A-7 and for the consequential reliefs. It has been alleged in the application that in O.A.K.541/88 reported in 1990 (14) ATC, 227, the Tribunal had declared that the age limit prescribed for recruitment to Group'D' post is not applicable to the casual labourers and that this dictum was followed by the

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Tribunal in O.A.181/91 also and that on the basis of these rulings, the respondents cannot enforce the upper age limit of 25 years in the case of casual labourers for recruitment to Group'D' post.

3. The respondents in their reply statement contend that as per the Recruitment Rules, the upper age limit for direct recruitment to the post of Group'D' is 25 years and therefore, the applicant who has crossed the upper age limit is not entitled to appear in the test. The applicant has filed a rejoinder producing an order A-10 by which the upper age limit has been enhanced by two years.

4. We have heard the learned counsel on either side. The sole question that calls for answer is, whether the applicant who is a casual labourer is entitled to be considered for recruitment to Group'D' post in the Postal Stores Depot, although he has crossed the upper age of 25 years for direct recruitment. This Bench of the Tribunal in O.A.181/91 had occasion to consider an exactly identical question where a part-time contingent Sweeper in the Postal Stores Depot was denied promotion to appear in the departmental test for recruitment to the Group'D' post on the ground that she had crossed the upper age limit. The Tribunal therein had observed as follows:

"8. We have carefully considered this statement. Direct recruitment is generally intended for

recruiting persons from the open market. In case persons in service are also eligible to participate in the selection for direct recruitment that would be indicated separately. In the present case, the recruitment is confined to existing departmental officials. In other words, this recruitment is by absorption and not by direct recruitment. Otherwise, column 9 should have specifically stated that the posts will be filled up by direct recruitment from the categories now mentioned in column 9. The expression 'direct recruitment' has deliberately been avoided as the method adopted is not direct recruitment as commonly understood. It is a method of absorption of regularisation of existing employees. Therefore, age limit in column 5 which applies to direct recruitment only will not apply to the new method of recruitment brought into force by the insertion of the aforesaid entry in column 9 of the Schedule. The upper age limit for Group D post for the feeder category mentioned in column 9 is 58 years, the normal age of superannuation.

9. We, therefore, find that with the amendments made by the amending rules, the age restriction in column 5 of the Schedule does not apply in respect of recruitment to the category of posts mentioned at item I under "subordinate offices" of the Schedule.

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Therefore, the applicant is eligible to be considered for selection in accordance with the amended rules."

5. The question that arises in this case has been clearly answered by the Tribunal in these cases as aforesaid. We do not find any reason to take a different view in the matter.

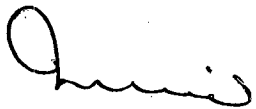
6. In the result the prescription of the upper age limit of 25 years for casual labourers for recruitment to Group'D' post in the Postal Stores Depot mentioned in A-4 is unsustainable and the same is liable to be set aside. The impugned order A-7 informing the applicant that he is ineligible to appear in the test, for having crossed the upper age limit of 25 years also is not sustainable. The action of the respondents by throwing open the vacancy of the Group'D' in the Postal Stores Depot to ED Agents of neighbouring division, as if there is no eligible casual labourers in the recruiting unit of Postal Stores Depot, while the applicant ~~was~~ available is also liable to be set aside.

7. In the result, we allow this application and set aside A-4, A-7 and A-8 orders. Respondents are directed to allow the applicant to participate in the test for selection and appointment to the post of Group'D' in the Postal Stores Depot, Thrissur. A selection permitting the applicant to

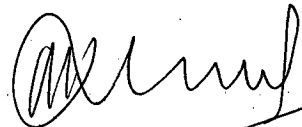
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participate in the test shall be held and consequential orders issued within a period of three months from the date of receipt of copy of this order. There will be no order as to costs.

Dated, the 5th of June, 2001.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-4: True copy of the Memo No.PSD-TC/Estt. dated 18.10.2000 of the first respondent.
2. A-7: True copy of the letter No.PSD/TC/ESTT dated 5.1.2001 of the 1st respondent.
3. A-8: True copy of the Memo No.B7/Rectt/Gr.D/2000 dated 26.2.2001 of the 2nd respondent.