

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.246/2001

Thursday, this the 7th day of November, 2002.

CORAM;

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

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

J.P.Jayasree,
E.D.S.P.M., Eruvatty.P.O.
Thalassery. - Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by
the Secretary to Government of India,
Ministry of Communications,
Department of Posts,
New Delhi.

2. The Superintendent of Post Offices,
Thalassery Division,
Thalassery.

3. Director of Postal Services,
Calicut Region,
Calicut.

4. Post Master General,
Calicut. - Respondents

By Advocate Mr TC Krishna, ACGSC

The application having been heard on 7.11.2002 the Tribunal on
the same day delivered the following:

O R D E R

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

The applicant was, in a process of selection, selected
and appointed as Extra Departmental Sub Post Master(EDSPM for
short), Neervaram with effect from 29.6.2000. Thereafter, on
his request she was transferred and posted as EDSPM, Eruvatty

by order dated 20.10.2000 (A-3). Her grievance is that all of a sudden she was served with a notice dated 23.2.2001(A-1) wherein it is stated that the Director of Postal Services(DPS for short), Calicut on a review of the selection case of EDSPM, Neervaram found that the applicant's selection was not in order because a person who had got 470 marks in the SSLC examination was not selected while the applicant who had got only 468 marks was selected and ordered cancellation of her appointment. She was, however, given an opportunity to make a representation within 30 days. Aggrieved by this notice, applicant has filed this application seeking to set aside the impugned notice A-1. It is alleged in the application that the impugned notice is unsustainable, that the DPS has already taken a decision to cancel the appointment of the applicant and ordered the cancellation, no effective opportunity is available to the applicant and that under the circumstances, the impugned order is liable to be set aside.

2. The respondents seek to justify the impugned order on the ground that on a complaint from a candidate named Santhoshkumar that he had higher marks but was not selected, the higher authority found the selection of the applicant irregular and before the action taken to rectify an irregularity in selection is unexceptionable.

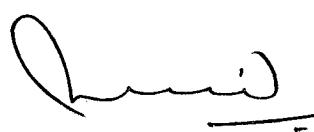
3. We have gone through the entire pleadings and other material placed on record and have heard the learned counsel on either side. The selection and appointment of the

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applicant as EDSPM, Neervaram took place on 29.6.2000. His appointment has not been challenged by Shri Santhoshkumar who is allegedly having a higher mark. If the selection of the applicant was not proper, Shri Santhoshkumar, the dissatisfied candidate should have challenged the selection before the Tribunal. The respondents have themselves considered the transfer of the applicant as EDSPM, Eruvatty in October, 2000. If for any reason the selection was not proper, the next higher authority could have cancelled the selection before the appointment took effect. Once the applicant has been appointed and he has joined the post, and the appointment is not under challenge, it is not open for the higher authority to order cancellation of the appointment.

4. In the light of what is stated above, we are of the considered view that the impugned order is unsustainable in law. The application is allowed and the impugned order A-1 is set aside. There is no order as to costs.

Dated, the 7th November, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of the Communication under No.B3/292 dated 23.2.01 issued by the 2nd respondent.
2. A-2: True copy of the appointment order No.B3/292 dated 29.6.2000 issued by the 2nd respondent.
3. A-3: True copy of the order No.OA 1045/200/D1gs dated 20.10.2000 issued by the 2nd respondent.

Respondents' Annexures:

1. R-1: True copy of the complaint submitted by C.G.Santhosh Kumar dated 29.6.2000.
2. R-1a: True English Translation of Annexure-R1.
3. R-2: True copy of the DGs letter NO.19-23/97-ED & TRG dated 13.11.1997.
4. R-3: True copy of the letter No.Staff/23/3/II dated 8.9.2000 issued to the 2nd respondent from the Office of the 3rd respondent.

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