

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.

~~264/91~~

264/91

199

DATE OF DECISION 28.2.92

O.K. Mohanan and another Applicant (s)

Mr. M.R. Rajendran Nair /

Advocate for the Applicant (s)

Versus

Union of India and 2 others

Respondent (s)

Shri NN Sugunapalan, SCGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

N. Dharmadan, M(J)

The applicants <sup>who</sup> ~~herein~~ are E.D. Agents, moved this application on being aggrieved due to the denial of selection and appointment as Postmen on the basis of their seniority in the list of eligible candidates inspite of the fact that they are successful in the examination held for the purpose.

2. The applicants admittedly E.D. Agents claims that they qualified in the departmental examination and they are senior enough to be selected to the cadre of Postmen. The applicants rely on Annexure-I a list of

eligible candidates wherein the applicants are ranked as No.4 and 5 respectively. Attacking the order at Annexure-II the applicants submit that allocation of 7 vacancies to Departmental candidates and 6 vacancies to outsiders is highly arbitrary and unconstitutional by virtue of the fact that the applicants are civil servants under the Constitution of India and they shall not be treated as outsiders. Hence it is contended that entire 13 vacancies should have been taken as one unit and all eligible candidates should have been considered according to their seniority, subject to the minimum qualification. The applicants invited our attention to Annexure-III and submitted that they obtained more than the minimum required for qualifying the departmental examination and they are admittedly seniors as is seen from Annexure-I list. In spite of these facts they are seen not selected while the candidate who holds rank No.9 has been selected. This according to them is highly arbitrary and illegal.

3. The respondents filed a detailed reply statement denying all the contentions of the applicants. They strongly content<sup>ed</sup> that the process of selection was conducted as per the rules and instructions and the

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applicants after going through the process of selection without any prior objection, they cannot be allowed to turn round and say that the selection is bad for the reason that they were not selected. While admitting the position of the respondents in Annexure-I list as 4 and 5 respectively, they contend<sup>u</sup> that soon after the publication of Annexure-I list one Smt. Alphonsa Sl.No.9 represented that her date of E.D. appointment shown in Annexure-I was wrong and it was required to be corrected as 16-8-71 instead of 13-8-73. Having found that it was a mistake, the records were corrected accordingly and she was re-ranked as No.2(a). Hence the discrimination alleged by the applicants in this regard is baseless and cannot<sup>ke m</sup> be sustained<sup>u</sup>. Denying the contentions raised against the classification of posts in the Recruitment Rules, the respondents content that such classification is reasonable and does not offend Article 14 and 16 of the Constitution of India

3. We have heard the parties and perused the documents carefully. The main question which requires to be settled is whether the E.D. Agents are to be treated on par with the Group-D employees for the

purpose of promotion and treat both classes as one unit.

This Tribunal had an occasion to deal with a <sup>similar</sup> ~~/~~ matter

in OA 320/91 (M. Vijayan V. Union of India-unreported)

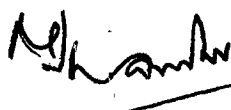
and dismissed the prayer ~~xxx~~ of the applicant therein

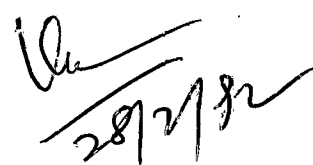
to declare the Recruitment Rules as null and void.. The

Tribunal observed as follows:

"...Under these rules 50% of seats are earmarked for promotion of Group-D officials who have put in 3 years of regular service. Rest of the 50% is set apart fro the EDAs dividing the equally into two categories viz. seniority and merit. This allocation appears to be fair. The E.D. Agents cannot be equated with Group-D employees. The Rule making authority has given an equitable distribution and the allocation contained in the method of recruitment cannot be struct down for reasons mentioned in the application. There is no force in the contention of the application and the application is liable to be rejected...."

4. In view of the facts and circumstances and in particular in the light of the view taken by us in the Original Application 320/91, we are inclined to dismiss this application following the decision referred to above. Accordingly we do so. There shall be no order as to costs.

  
(N. Dharmadan)  
Member(Judicial)

  
(N.V. Krishnan)  
Member(Administrative)

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