

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 266/90
~~KXXXXX~~

199

DATE OF DECISION 8.8.91

KC Baby and another _____ Applicant (s)

Mr GV Radhakrishnan _____ Advocate for the Applicant (s)

Versus

Senior Postmaster,
Calicut Head Post Office, _____ Respondent (s)
Kozhikode and others.

Mr V Krishnakumar, ACGSC _____ Advocate for the Respondent (s) 1, 2 & 4

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

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? Yes
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Shri NV Krishnan, A.M.

The two applicants approached the Tribunal on 2.4.90 stating that they were working as Extra Departmental Letter Box Peons in the Calicut Head Post Office under Respondent-1 and they were aggrieved by the fact that they were not being considered in the selection taking place for regular appointment to that post. It was submitted that they were initially appointed on 3.12.1987 provisionally by Respondent-1 and were continuing as such.

2 They have prayed ^{for} the following reliefs:

- "(i) to issue a direction to the 1st respondent to consider the applicants for selection and regular appointment as Extra Departmental Letter Box Peon alongwith the candidates sponsored by the Employment Exchange;

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- (ii) to direct the 1st respondent to permit the applicants to take the interview for selection to the post of Extra Departmental Letter Box Peon scheduled to be held on 3.4.1990 or on any other deferred date;
- (iii) to declare that the applicants are entitled to preferential right for regular appointment as Extra Departmental Letter Box Peon under Section 25 H of the Industrial Disputes Act;
- (iv) to direct the respondents not to terminate the appointment of the applicants pending final selection and appointment to the post of Extra Departmental Letter Box Peon;
- (v) to grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case."

3 When the application was admitted, we directed that the two applicants should also be considered provisionally alongwith others who have been called for interview and that the result is ^{to be} not announced without permission of this Tribunal. It was also directed that pending final selection, the services of the applicants should not be terminated.

4 The respondents have filed a reply stating that these two vacancies of Extra Departmental Letter Box Peons at Calicut Head Post Office are to be filled up regularly consequent on the promotion of Shri Jayarajan and Shri Lokanathan to the Group D Cadre. It is contended that the two applicants are merely substitutes of these regular incumbents and therefore, they have not been considered. The respondents invited names from the Employment Exchange and the names of the applicants were not sponsored by the Employment Exchange.

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5 We have consistently held that the provisional
appointee in ~~Extra~~ ^{an} Departmental Branch Post Office is
entitled to be considered by the Department when they
take action to select a person for regular appointment.
The question in this case therefore is whether the
applicants are provisional appointees or merely
substitutes.

6 Admittedly, the regular incumbents have already
been appointed to Group D posts. The learned counsel
for the applicant produced before us a copy of the
order dated 24.10.88 by which those two officials
were promoted to Group D posts. It is also a fact
that ever since then the two applicants have been
continuously holding the posts Extra Departmental
Letter Box Peon.

7 Therefore, whatever be their status before the
promotion of the regular incumbent to the Group D posts
it is quite clear that after their promotion, the
status of the applicants would ^{be by} that of provisional
appointees irrespective of whether there is a formal
order of appointment or not. The very fact that the
applicants have been allowed to continue in those posts
by the Department is sufficient proof of this fact.

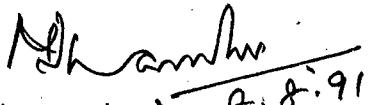
8 In the circumstances, we have no difficulty in
holding that the applicants are provisional appointees

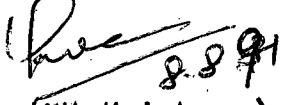
and are entitled to be considered for selection alongwith other candidates who have been sponsored by the Employment Exchange.

9 The learned counsel of both sides submitted that the selection is already over and the result has not been published as there is an embargo imposed by this Tribunal.

10 Therefore, we dispose of this application by directing the respondents to declare the results of the selection on the basis of the interview held and take action in accordance with law. We make it clear that if the applicants are aggrieved by the result of the selection, they are at liberty to take recourse to such legal remedy as may be advised.

11 There will be no order as to costs.


(N Dharmadan) 8-8-91
Judicial Member


(NV Krishnan) 8-8-91
Administrative Member

8-8-1991