

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.278/2003

Dated Friday this the 8th day of August, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

S.Geetha
D/o Late Sri Janardhanan Nair
Residing at Nellikkuttiyil House
Naduvilakkara
West Kallada P.O.
Kollam - 691 500.

Applicant

[By advocate Mr.Shafik M.A.]

Versus

1. Union of India representeed by
its Secretary
Ministry of Communications
New Delhi.
2. The Chief Postmaster General
Kerala Circle
Thiruvananthapuram.
3. The Senior Superintendent of Post Offices
Kollam Division
Kollam.
4. The Sub Divisional Inspector of Post Offices
Kundara Sub Division
Kollam.
5. Smt.Syamala
Part time Sweeper cum Scavenger
West Kallada P.O.
Kollam.

Respondents.

[By advocate Mr.N.M.James, ACGSC]

The application having been heard on 8th August, 2003, the Tribunal on the same day delivered the following:

O R D E R

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

The sole question in this OA is whether the selection of the 5th respondent as part time Sweeper-cum-Scavenger, West Kallada P.O., Kollam in preference to the applicant who claims to have put in 947 days of uninterrupted casual service as part time sweeper in the very same post office is justified. According to the applicant, after 947 days of continuous casual service as

part time sweeper, she had applied for leave with effect from 2.11.2001 to 6.11.2001 on account of her marriage on 4.11.2001. When she reported back on duty on 7.11.2001 she was not permitted to join. Meanwhile, by A-1 notice dated 28.5.2001, the 4th respondent had called for applications for the post of part time casual labour at West Kallada P.O., Kollam. The applicant applied for the same and by A-2 communication dated 16.2.2002, she was called for verification of records on 1.3.2002. She appeared before the fourth respondent with necessary documents like proof of age, educational qualification etc. Knowledge of how to read and write Malayalam was the required educational qualification for the post. The documents were verified in respect of 18 candidates who appeared on the same day inspite of the fact that that day i.e. 1.3.02 was a hartal day. However, the applicant came to know that the 4th respondent selected and posted one Smt. Syamala - the 5th respondent - to the post of part time sweeper in pursuance of A-1 notice. The applicant's representation dated 19.4.2002 was replied to by A-3 letter dated 6.6.02 whereby the applicant was informed that the selection of the 5th respondent was on the basis of the latter's superior merit allegedly reflected in the marks obtained by her in SSLC. The applicant's case is that the marks obtained in SSLC is not a determining factor for the post of part time sweeper-cum-scavenger. Further, the 5th respondent did not attend the interview on 1.3.2002 which was the appointed day for verification the records. The applicant's further representation Annexure A-4 has not evoked any response from the 4th respondent. The applicant is aggrieved that her long and uninterrupted service as part time sweeper at the very same post office ought

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to have weighed with the respondents for the purpose of selection and they ought not to have appointed a person who did attend the interview on 1.3.2002. Hence this OA seeking the following reliefs:

- (i) To call for the records relating to the posting of the 5th respondent as part time sweeper cum scavenger, West Kallada P.O. and to set aside the same as also the records relating to Annexure A-3 and quash the same;
- (ii) To declare that the action of the 4th respondent in posting the 5th respondent as part time sweeper cum scavenger, West Kallada P.O. without her having attended the interview held on 1.3.2002 in the office of the 4th respondent along with other candidates is arbitrary, illegal, unauthorized and violative of Articles 14 and 16 of the Constitution of India.
- (iii) To direct respondents 2 & 3 to review the posting of the 5th respondent as part-time Sweeper-cum-Scavenger, West Kallada P.O. made by the 4th respondent and to cancel the same using the powers of review vested in the next higher authority;
- (iv) To direct the 4th respondent to consider the case of the applicant for appointment as part time Sweeper-cum-Scavenger, West Kallada P.O. giving due weightage to her long service in the same post and to appointment her as part time Sweeper-cum-Scavenger, West Kallada P.O. on that basis.

2. In the reply statement, the respondents have stoutly opposed the OA stating that the applicant's engagement in West Kallada P.O. was only a stop gap arrangement, that in any case, there was no proper appointment order by any competent authority favouring the applicant and that experience was not a criterion to be considered for appointment as part time sweeper-cum-scavenger. It is also stated that the only criterion for appointment was the marks obtained in SSLC. The 5th respondent, having secured higher marks in SSLC examination, was selected. With regard to the failure of the 5th respondent to attend the interview for verification of records on 1.3.2002, it is submitted by the respondents that a few candidates could not

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attend the interview on account of the hartal on that day and that they were therefore given further chance to appear for verification of records on 1.4.02. This naturally gave the 5th respondent her due chance to appear for verification of records and hence the selection, it is urged.

3. The applicant has filed a rejoinder reiterating the averments made in the OA and making a further contention that after extracting work for 947 days continuously, the respondents should not be heard saying that her engagement as part time sweeper cum scavenger was done by an incompetent authority.

4. We have heard the learned counsel on either side. Shri Shafik M.A., the learned counsel of the applicant has stated that there are no rules or instructions laying down the criteria to be followed in the matter of appointment of part time sweeper. The basic requirement was that the candidate should know how to read and write the local language, which the applicant satisfied fully. According to counsel, 947 days of continuous service of the applicant ought to have been a favourable factor although there was no specific provision for preference to be given to experience. In the absence of any instructions on the matter, the long experience put in by the applicant ought to have been considered. The learned counsel for the respondents, Shri N.M.James, ACGSC, has relied on the reply statement filed by the respondents and stated that there was no specific interview scheduled on 1.3.02 which was the day fixed for verification of documents. As it was a hartal day, some candidates who could not get their documents verified were given another chance to produce the records for verification. This gave an opportunity to the

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5th respondent to produce her documents for verification. On verification, it was found that she was the most meritorious candidate on the basis of the marks obtained in SSLC. Such an exercise could not be faulted, for, it was for the respondents to follow reasonable criteria for such appointment, urged the learned counsel.

5. On going through the facts and having regard to the rival contentions, we find that 18 persons attended the interview for verification of documents on 1.3.2002. We find no evidence in regard to the respondents' claim that the absentees were duly informed by any letter or public notice about any subsequent date for verification. It would appear that the 5th respondent was given an unduly long time to produce the documents. There is no rule or instruction to support the theory that the marks obtained in SSLC should be considered above the experience put in by a candidate for the purpose of appointment as part time sweeper cum scavenger. It is evident from records that the applicant has put in 947 days of unbroken service as part time sweeper cum scavenger in West Kallada P.O., Kollam whether her engagement was on the basis of competent appointment order or not. It is also not. It is also not disputed that she knows how to read and write the local language i.e. Malayalam.

6. In the circumstances, we hold that the appointment of the 5th respondent purely on the alleged basis of higher marks obtained in SSLC cannot be sustained. The whole exercise has to be done afresh. All the candidates who had made valid application in response to A-1 for the post of part time sweeper cum scavenger should be given a fresh chance to participate in

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the selection process for the purpose of final selection. However, for the purpose of selection, the competent respondents should formulate some explicitly reasonable criteria having nexus to the functional requirement.

7. In the result, A-3 communication dated 6.6.02 is set aside. The selection and appointment of the 5th respondent as admitted by the respondents is also set aside. With these, we remit the matter back to the respondents for appropriate action to be taken expeditiously.

8. The OA is disposed of as above.

Dated 8th August, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

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T.N.T. NAYAR
ADMINISTRATIVE MEMBER

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No. 278 of 2003

Wednesday, this the 22nd day of September, 2004

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. S. Geetha,
D/o late Janardhanan Nair,
Residing at Nellikkuttiyil House,
Naduvilakkara, West Kallada PO,
Kollam - 691 500Applicant

[By Advocate Shri Shafik MA]

Versus

1. Union of India, represented by its Secretary, Ministry of Communications, New Delhi.
2. The Chief Postmaster General, Kerala Circle, Thiruvananthapuram-695033
3. The Senior Superintendent of Post Offices, Kollam Division, Kollam.
4. The Sub Divisional Inspector of Post Offices, Kundara Sub Division, Kollam.
5. Smt. Syamala, Part-time Sweeper cum Scavenger, West Kallada PO, Kollam. Respondents

[By Advocate Shri N.M. James, ACGSC (R1 to R4)]
[By Advocate Shri M.V. Thamban (R5)]

The application having been heard on 22-9-2004, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. K.V. SACHIDANANDAN. JUDICIAL MEMBER

When the matter came up for hearing, learned counsel for the applicant submitted that the applicant has already been granted appointment to another ED post consequent to the order of this Tribunal in OA.No.884/2003 and that therefore he is not pressing the OA. Hence, the Original Application is dismissed as not pressed. No costs.

Wednesday, this the 22nd day of September, 2004

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H.P. DAS
ADMINISTRATIVE MEMBER

**K. V. SACHIDANANDAN
JUDICIAL MEMBER**

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