

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....

Date of decision: 18.10.93

CORAM

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

And

HON'BLE SHRI S.KASIPANDIAN, ADMINISTRATIVE MEMBER

Original Application No. 283/92

K. Geetha ... Applicant

Mr.O.V.Radhakrishnan ... Counsel for applicant

Versus

1. Sub Divisional Inspector of Post Offices, Wadakkancherry.

2. Senior Superintendent of Post Offices, Trissur.

3. District Employment Officer, Trissur.

4. K.R.Parukutty

5. Union of India, represented by its Secretary, Ministry of Communications, New Delhi. ... Respondents

Mr. George Poonthottam, ACGSC ... Counsel for R1, 2&5.

Mr. D.Sreekumar ... Counsel for R3

Mr. MRR Nair ... Counsel for R4

ORDER

Mr.N.Dharmadan, JM

The applicant who is denied the opportunity of selection as EDBPM, Chelakode Branch Office, filed this application under section 19 of the Administrative Tribunals Act for quashing Annexure A4 notification issued by the District Employment Officer, Trichur, with a further prayer of quashing the selection of the 4th respondent in the regular selection conducted by the 2nd respondent. According to the applicant, she was working in the same post office as EDBPM as a substitute when the regular incumbent was promoted as Postman with effect from 17.12.90, who took charge as Postman from 17.9.91. The applicant contended that she has been working in place of the regular incumbent since 18.9.91 and that she should be treated as a provisional hand from that date.

The applicant also submitted a request for considering her in the regular selection. In the interview, though the applicant was also considered along with 6 others on 7.1.92, she was not selected inspite of the fact that she scored the highest mark of 311 in the SSLC. The selected candidate scored only 250 marks and, according to the applicant, the 4th respondent is not eligible to be appointed.

2. Respondents 1 and 2 filed a detailed reply. Shri M.R.Rajendran Nair, appeared on behalf of the contesting respondent, submitted that the applicant has not come with clean hands. He submitted that in the "family income" certificate, which was issued by the Tahsildar, and produced before the 2nd respondent, the word "family" has ^{not} been scored out original certificate in the file and the and it is clear from the statement in the first rejoinder that the applicant suppressed details. So, the learned counsel for the third respondent submitted that as the applicant has come before the Tribunal without clean hands, the Original Application deserves to be rejected.

3. We have heard the counsel on behalf of the parties. We are of the view that the decision in this case will depend upon a perusal of the minutes of the selection conducted by the 2nd respondent while considering the candidates who have sponsored by the Employment Exchange and the applicant. The learned counsel for respondents 1 and 2 has produced the minutes of the selection. It is stated in the minutes that the applicant has produced an "income" certificate which cannot be treated as a personal income certificate. It is further stated in the minutes that the applicant's candidature was rejected "outrightly" on the ground that her name was not sponsored by the Employment Exchange.

4. The two reasons stated in the minutes for not considering the applicant in the regular selection cannot be sustained. The applicant has produced sufficient material to show that she has personal income of Rs 3000/- from property owned by her. According to the applicant the original certificate itself discloses this fact and it has been clarified by the explanation given by the applicant in the rejoinder. She further submitted that it is not necessary to establish a personal income in a regular selection as per the rules. It is only necessary to establish 'adequate means' of livelihood and that alone has to be satisfied in this case.
5. The cut off date that is fixed in the notification cannot be sustained in the light of the decisions of this Tribunal. Hence the notification itself is invalid. The failure of the 2nd respondent to consider the applicant in the regular selection due to the fact that the applicant was not sponsored by the Employment Exchange is also a reason which cannot be sustained.
6. In the light of the aforesaid discussion, we are of the view that the selection made by the 2nd respondent in this case cannot be sustained, particularly when the applicant's case was not considered at all in the selection. We feel that justice would be met in this case if we set aside the selection of the 4th respondent and remand the case back to the 2nd respondent for a fresh selection to be held in accordance with law after giving notice to all persons who had been included in the interview held on 7.1.92 so as to conduct the selection according to law. A fresh notification for selecting a candidate for the post is necessary because of the fact that the Annexure-A4 contains conditions which cannot be sustained

in the light of the decisions of this Tribunal. In the notification it should be made clear that the candidates already interviewed on 7.1.92 alone will be considered for the regular selection. This selection, as directed above, shall be conducted within a period of three months from the date of receipt of a copy of this judgement. We make it clear that the 4th respondent shall be allowed to continue in the present post till a regular selection and appointment, as directed above, is conducted and completed by the 2nd respondent.

7. The application is allowed as above. No order as to costs.



(S. Kasipandian)
Member (Administrative)



(N. Dharmadan)
Member (Judicial)

18.10.93

List of Annexures

Annexure-A4 - True copy of paper publication dated 12.11.91 by the Employment Exchange.