

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 292/99

Tuesday the 30th day of March 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR B.N.BAHADUR, ADMINISTRATIVE MEMBER

M. Sahadevan
Extra Departmental Mail Man
Head Record Office
Calicut Division, Calicut.

...Applicant

(By advocate Mr Siby J. Monippally)

Versus

1. Postmaster General
Thiruvananthapuram.
2. The Postmaster General
Northern Region, Calicut.
3. The Superintendent
Railway Mail Service
Calicut Division, Calicut.
4. The Head Record Officer
Office of the Head Record Office
Calicut Division, Calicut.
5. T.K.Venugopalan
Extra Departmental Stamp Vendor
Head Record Office
Calicut Division, Calicut.

...Respondents.

(By advocate Ms. I. Sheela Devi, ACGSC)

The application having been heard on 30th March 1999,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant working as Extra Departmental Mailman has filed this application to have Annexure A-5 order set aside and for a direction to the respondents to make appointment to the post of Extra Departmental Stamp Vendor in the Head Record Office, Calicut from among eligible E.D. officials by a due process of selection and for a declaration that the applicant is the seniormost and qualified E.D. official in the Head Record Office and he is entitled to be appointed as Extra Departmental Stamp Vendor.

2. When the fifth respondent was appointed as Extra Departmental Stamp Vendor in the Head Record Office, Calicut in 1991, the applicant challenged the appointment on the ground that he was not qualified for such appointment, but without success. When the post of E.D.S.V. was given a higher scale of allowance the applicant on 28.12.98 made annexure A-1 representation to the third respondent claiming that he has to be posted as E.D.S.V. in the place of respondent No.5. The third respondent issued Annexure A-2 letter to the fourth respondent directing to call for volunteers if the post of E.D.S.V. has not been filled up as per Rules. The fourth respondent accordingly called for volunteers. The applicant submitted his willingness by Annexure A-4. However, the third respondent issued Annexure A-5 impugned order addressed to the fourth respondent stating that the appointment of the fifth respondent was perfectly allright and no change is called for. It is against that the application has been filed.

3. We have very carefully gone through the averments made in the application, the materials placed on record and have also heard Mr Siby J.Monippally, learned counsel appearing for the applicant.

4. We find no legitimate cause of action for the applicant to move this Tribunal. Apart from Annexure A-2 where the third respondent has stated that 'if the post of E.D.S.V. is not filled up as per Rules, volunteers may be called for to work on that post', no material has been placed on record to show that the appointment of the fifth respondent made in the year 1991 suffered from any infirmity. The third respondent who has issued the A-2 letter in his impugned order A-5 made it clear that the appointment of the fifth respondent as Extra Departmental

Stamp Vendor was on a clean account. Though we do not really understand what is meant by a clean account, we infer that the intention was that the appointment was in order. We agree with the view taken by the third respondent because the challenge made by the applicant against the appointment of the fifth respondent in the year 1991 was turned down and the matter rested there. Further, in the rules relating to selection and appointment of E.D. posts, we find no hierarchy of posts in the cadre for us to say whether an E.D. post is a feeder category for another E.D. post. Further, we have not come across any rules or instructions which lays down that if a person with lesser qualifications had been appointed on that post years before on the request of a person with higher qualifications, the person earlier appointed should be brought down and the claimant appointed there. The claim of the applicant that he is the senior most qualified E.D. agent does not advance the cause of the applicant for being appointed as Extra Departmental Stamp Vendor, because there is no such legal right. Without challenging the appointment of the fifth respondent on the post of E.D. Stamp Vendor made in the year 1991 which is not permissible now for two reasons - first it is barred by limitation and secondly it is barred by res-judicata, as the applicant earlier challenged it unsuccessfully, we find absolutely no cause of action to the applicant to file this application. Learned counsel for the applicant states that pursuant to A-2, volunteers were called for by the Head Record Office and, therefore, it should be seen that the action of the third respondent is inconsistent. We are not pronouncing upon the action of the third respondent as inconsistent or consistent but we are sure that the

consistency or inconsistency of the third respondent has not resulted in detriment to the applicant nor has given him a valid cause of action. This application has only to be rejected under Section 19(3) of the Administrative Tribunals Act, 1985 and we do so. There is no order as to costs.

Dated 30th March 1999.



B.N. BAHADUR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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Annexures referred to in the order:

1. A-5, true copy of the order No.13/ED/117/III dtd. 19.2.99 issued by third respondent.
2. A-2, true copy of the order No.13/ED/117/III dtd. 9.2.99 issued by third respondent to Head Record Officer, RMS, Calicut Division.
3. A-1, photostat copy of representation dated 28.12.98 filed by the applicant to 3rd respondent.
4. A-4, true copy of application of applicant to 3rd respondent dated 16.2.99.