

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 293/97

Thursday, this the 30th day of September, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

HON'BLE MR G RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Thomas Varkey,
S/o. Thomas Varkey,
Extra Departmental Delivery Agent cum
Extra Departmental Mail Carrier,
Edappalayam P.O., residing at
Kariyilakulam veedu, Venchor P.O.

...Applicant

By Advocate Mr. M.R. Rajendran Nair

Vs.

1. Superintendent of Post Offices,
Pathanamthitta Division,
Pathanamthitta.
2. T. Asokan,
Extra Departmental Mail Carrier,
Vilakkuvattom, Punaloor.
3. Union of India represented by
Secretary to Government of India,
Ministry of Communications,
New Delhi.

...Respondents

By Advocate Mr. M.H.J. David J, ACGSC

The application having been heard on 30.9.99, the
Tribunal on the same day delivered the following:

ORDER

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-1 and to direct the
respondents to conduct the selection to the post of Extra
Departmental Branch Postmaster (EDBPM for short), Ambanad,
in accordance with law and appoint him as he is the
candidate with highest marks.

2. The applicant is working as Extra Departmental
Delivery Agent (EDDA for short), Edappalayam Post Office.
A vacancy of EDBPM arose at Ambanad Post Office. The
applicant was one of the candidates for that post. He was

not selected. The 2nd respondent was found fit for that post by the department and as per A-1, he was transferred and posted as EDBPM, Ambanad. The applicant says that he has secured 267 marks in the SSLC examination. The 2nd respondent has got comparatively less marks. The selection of 2nd respondent is bad in law.

3. Respondents resist the O.A. contending that the applicant was not transferred and posted as Branch Post master, Ambanad as his work and conduct were not satisfactory. The applicant had caused loss of one money order entrusted to him for payment on 26.12.96 before its payment. Hence, the integrity of the applicant is highly suspicious and he was considered not fit for appointment as Branch Postmaster since that post involves higher responsibility. Educational qualification and property qualification will not confer eligibility for transfer and posting of a working Extra Departmental Agent as Branch Postmaster if work and conduct in the present post held are not satisfactory.

4. The applicant rests the case on the ground that he, having obtained more marks when compared to the 2nd respondent ought to have been transferred and posted as EDBPM, Ambanad. Respondents admit that the applicant has got comparatively better marks than the 2nd respondent but that alone is not the criterion. He has been found not fit for the reason that his work and conduct are far from satisfactory and as his conduct and work are far from satisfactory as EDDA, he is not suitable to hold the post of EDBPM since the same involves higher responsibility.

5. The department has found that the applicant's conduct and character are far from satisfactory in order to

be appointed as EDBPM. R-1(A) is the statement given by the applicant before the Sub Divisional Mail Overseer, Punalur. There, he admits of having lost Money order form before it was delivered to the addressee. He says that it was not due to any fault of his but due to reasons beyond his control. The reason stated is that there was a strong wind and the Money Order form was blown out in the strong wind. From R-1(D), it is seen that disciplinary action in respect of the loss of Money Order before payment is pending against the applicant and enquiry revealed that loss of Money Order was due to the carelessness of the applicant. There is also an adverse report against the applicant as per R-1(D). R-1(E) is a communication from the Mail Overseer, Punalur to the Sub Divisional Inspector, Posts, Punalur. There also, adverse remarks are contained against the applicant. As per R-1(I), the applicant was warned by the Sub Divisional Inspector of Posts, Punalur. From R-1(J), the statement given by the applicant, it is seen that there were certain lapses on his part in discharging his official duties and acknowledging the same and undertaking that he will not repeat and he has sought pardon. The department based on these materials came to the conclusion that the applicant's conduct and character are not worthy of being transferred and posted as Branch Postmaster. We are not sitting in appeal against the finding of the department reappreciating the evidence against the applicant for the department to arrive at a conclusion regarding his unsatisfactory conduct and character. The conclusion of the department that the applicant's conduct and character were not worthy of being posted as Branch Postmaster cannot be said to be arbitrary or perverse in the light of the materials placed before us. Though the applicant has admittedly got more marks than the 2nd respondent, since

that is not the only criterion and as the department has found him not possessed of good character and conduct to be appointed as EDBPM and that finding of the department is not under challenge, we do not find any ground to interfere with A-1 order. When A-1 order is not to be interfered, the second prayer cannot be granted.

6. Accordingly, the O.A. is dismissed. No costs.

Dated this the 30th day of September, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. Annexure A-1:

True copy of the Memo N .B3/Ambanad dated 21.2.1997 issued by the 1st respondent.

2. Annexure R-1(A):

True copy of the statement dated 4.2.1997 submitted by the applicant before the Sub Divisional Inspector, Punalur.

3. Annexure R-1(E):

True copy of the report dated 4.2.1997 submitted by M. Gangadharan Nair, Mail Overseer I, Punalur to the Sub Divisional Inspector, Punalur.

4. Annexure R-1(I):

True copy of the Letter No.DA/BO/Edapalayam dated 5.7.96 of the Sub Divisional Inspector of Post Offices, Punalur to the applicant.

5. Annexure R-1(J):

True copy of the State given by EDDA/EDMC, Edapalayam dated 27.7.93 before the SDI, Punalur.

6. Annexure R-1(D):

True copy of the letter No.B6/Ambanad dated 18.2.1997 issued by the Sub Divisional Inspector, Punalur to the 1st respondent.