

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.296/99.

Friday this the 29th day of June 2001.

CORAM:

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. T.N.T.NAYAR, ADMINISTRATIVE MEMBER

C.M.Sushama,
Extra Departmental Branch Postmaster,
Thovarayar P.O.,
Kattappana,
Idukki District. Applicant

(By Advocate Shri P.C.Sebastian)

Vs.

1. The Superintendent of Post Offices,
Idukki Division, Thodupuzha,
Pin: 685 584.
2. The Director of Postal Services,
Central Region, Kochi -682 016.
3. The Director General,
Department of Post,
Dak Bhavan, New Delhi. Respondents

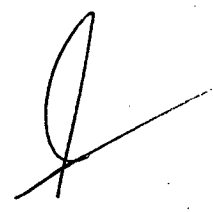
(By Advocate Shri M.R.Suresh, ACGSC)

The application having been heard on 29th June, 2001
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A-1 and A-2 and to declare that she is entitled to continue as Extra Departmental Branch Post Master, Thovarayar P.O. in terms of A-4 appointment order. The applicant is working as Extra Departmental Branch Post Master, Thovarayar Branch Office w.e.f. 14.1.98 on a regular basis. While so, the applicant was served with A-5 stating that the 2nd respondent has reviewed the applicant's selection to the post of Branch Postmaster, Thovarayar and observed that selection was irregular for want of certificate



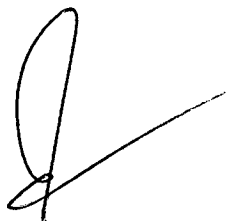
of independent personal income. She submitted a representation A-5. A-6 income certificate was issued by Tahsildar was also produced.

2. Respondents resist the O.A. contending that a candidate to the post of BPM should have adequate means of livelihood and that preference is given to those candidates who have adequate means of livelihood and is derived from landed property/immovable assets. During the personal hearing the applicant submitted in writing that she does not own any landed property and the land is in her husband's name.

3. A-2 says that the selection and appointment of the applicant was made violating the conditions laid down by the DG as she has no independent income. It is further stated therein that Punjab and Haryana High Court has held that the income/property qualification prescribed in the DG's letter is essential and mandatory.

4. Even as per A-2 what the Punjab and Haryana High Court held is not that income from landed property/immovable assets is a must, but should have income/property qualification. So, if one has got independent income that is enough.

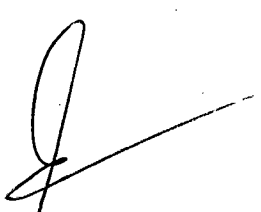
5. This Bench of the Tribunal had an occasion to consider this aspect and has held that, prescribing of holding landed property/immovable assets as a pre-requisite for appointment as EDBPM is bad in law. That being so, the position is that for the post of EDBPM, one should have independent income. Now,



the question to be considered is whether the applicant has got independent income or adequate means of livelihood.

6. From A-4, it is seen that the applicant was appointed. It means that the appointing authority was convinced that she satisfies all the eligibility conditions and all pre-appointment formalities. It is the reviewing authority who took up the matter and says that she has no independent income.

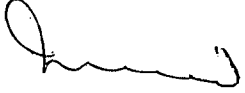
7. A-6 dated 4.2.1999 clearly shows that the applicant has got annual income of Rs.12,000/-. There is no dispute raised against A-6 in the reply statement filed by the respondents. Learned counsel appearing for the respondents submitted that A-6 was filed later. At any way, it was filed before issuance of A-2. It is also referred to in A-2 that the applicant has produced income certificate dated 4.2.1999 (A6) issued by the Tahsildar showing her annual income as Rs.12,000/-. The authority who has issued A-2 has stated in A-2 that during the hearing, the applicant submitted in writing that she does not own any landed property, that the land is in her husband's name and that she promised that she would acquire landed property and produce records. It is not necessary as already stated to become an EDBPM, one should own landed property. The authority who issued A-2 has not viewed the matter in the correct perspective. What is required is only adequate means of livelihood. That does not mean the possession of immovable assets or landed property only. From a reading of A-2 it appears that the authority who issued it, is in the belief that



one who has got landed property alone can be appointed as EDBPM. The position is not so. There is nothing stated in A-2 that A-4 is not acceptable or is rejected on any grounds. That being the position, A-2 cannot be sustained in law. Since A-1 is issued on the basis of A-2, A-1 also cannot be sustained.

8. Accordingly, O.A. is allowed quashing A-1 and A-2 and declaring that the applicant is entitled to continue as EDBPM, Thovarayar P.O. No costs.

Dated the 29th June 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

IV

List of Annexures referred to in the order:

- A-1: True copy of Memo No. B6/159/B dated 10.3.99 issued by Ist respondent.
- A-2: True copy of Order No. ST/40-6/95 dated 5.3.99 issued by 2nd respondent.
- A-4: True copy of regular order of appointment issued by Ist respondent No. B6/159 B dated 22.1.98.
- A-5: True copy of letter No. B6/159-B (Part) dated 27.1.99 issued by Ist respondent.
- A-6: True copy of Certificate No. C1-1055/99 dated 4.2.99 issued by Tahsildar, Udumbanchola.