

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 297
T. A. No.

199 0

DATE OF DECISION 19.9.90

Mr. K. C. Jayakumar Applicant (s)

Mr. M R Rajendran Nair Advocate for the Applicant (s)

Versus

UOI rep. by Secretary, Respondent (s)
Communication New Delhi and another

Mr. TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

In this application, the dispute relates to the appointment to the combined post of Extra Departmental Mail Carrier and Extra Departmental Delivery Agent, Poothavazhy Post Office. The applicant commenced his service on this post as a substitute of the regular incumbent. However, ^{on 1.1.1990} ~~on~~ 1.1.1990, when the regular incumbent P. K. Sasi was promoted, the applicant states ^u ~~that~~ he is continuing on a provisional basis.

2. When the selection process for regular appointment was initiated, the applicant was not called for interview and hence he filed this application seeking a direction to the respondents to consider him ~~for~~ selection on a regular basis.

3. The respondents deny that the applicant is holding the post presently on provisional basis. It is urged that he is only a substitute of P. K. Sasi, the regular incumbent. It is admitted by the respondents that the applicant is not eligible for consideration because he does not satisfy the qualification relating to residence which requires that he should be a permanent resident of the Pampady South, from where mails originate and terminate.

4. The learned counsel for the applicant contended that the applicant is actually a resident in the delivery zone of Poothuvazhy Post Office where the post of Extra Departmental Delivery Agent has to be filled. He submitted that according to the departmental instructions he fully satisfies the qualifications regarding residence.

5. There are only two issues involved viz. (i) whether the applicant can be considered to be appointed provisionally as EDDA from 1.1.90 on the promotion of Shri P. K. Sasi and (ii) whether he satisfied the qualification regarding residence.

6. It is admitted that the regular incumbent has been promoted as Postman from 1.1.90. Respondents state that P. K. Sasi the regular EDDA is on leave without allowance, while officiating as Postman and hence the applicant is only a substitute of P. K. Sasi. Whatever may be the compulsion of the Department in resorting to this practice, we are satisfied that if a person is appointed to a post of EDDA after the regular incumbent has taken over charge of another post in the department, it has to be treated as a provisional appointment.

7. We have seen the departmental instructions relating to residence qualification. We notice that the Mail Carrier should be a permanent resident of the station of the main post office or the place from where the mail originates/terminates. The Extra Departmental Delivery Agent should stay, as far as possible, in or near the place of work. We are of the view that the stipulation in regard to Extra Departmental Mail Carrier implies that he can be a resident of either (a) the place from where the mail originates or (b) the place where these mails ultimately terminate. Therefore, it cannot be that Pampady South is the only relevant place of residence for an E.D. Mail Carrier. For, there should be another place where the mail terminates which should also satisfy the qualification for residence for this purpose. In any case, as far as the applicant is concerned, as he is being considered for the combined post of E.D. Mail Carrier and E.D. Delivery Agent, it is sufficient if he satisfies the residence condition prescribed for any one of these posts. As he is permanently resident in the delivery zone of Poothuvazhy Post Office, we are of the view that he fully satisfies the condition of residence.

8. By an interim order, we had directed that respondents to hold the selection in which the applicant was allowed provisionally to appear with the further direction that the result of the interview should not be published. It is submitted by the respondents that the interview in which the applicant participated on our direction has been held. In the circumstances mentioned above, we hold that the applicant was entitled to be considered in the regular selection along with other candidates.

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9. Though the respondents have submitted in their reply that the applicant is not entitled to any preference on the ground of being Scheduled Caste, the applicant has submitted Annexure-I letter by the DG P&T dated 8.3.1978 in this behalf on which he relies for this claim.

10. As the applicant has prayed that he be considered for selection and we have come to the conclusion that he is eligible for such consideration, we direct the respondents to select in accordance with law the candidate for regular appointment from those who were interviewed and in respect of which the particulars of Annexure R-2(b) have been filed, keeping in view the prayer made by the applicant that he is entitled to preferential consideration on the basis of Annexure-II letter dated March, 1978 and other relevant instructions and appoint him to the post of Extra Departmental Mail Carrier and Extra Departmental Delivery Agent, Poothavazhy Post Office. On such appointment the interim order shall stand vacated.

11. The application is disposed of with the above directions.


19.9.90

(N. Dharmadan)
Judicial Member
19.9.90


19/9/90

(N. V. Krishnan)
Administrative Member
19.9.90

kmm