

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 30/1987

DATED FRIDAY THE THIRD DAY OF MARCH
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI G. SREEDHARAN NAIR, JUDICIAL MEMBER

1. S. Remadevi
2. C. A. Kanchana
3. Radhakrishnan
4. V.J. Dayavathy
5. B. R. Sarasu
6. G. Jayasree
7. P. C. Sunila
8. M. K. Leela
9. E. J. Ashamargret
10. T. Suma
11. K. K. Krishnakumari
12. K. Saraswathy
13. P. A. Thankamani &
14. C. R. Raji

Applicants

Vs.

1. Director General of Posts,
Dakdar Bhavan, New Delhi-1
2. Postmaster General,
Trivandrum-35
3. Senior Superintendent of Post
Offices, Trichur-2
4. K. Sindhu, Postal Assistant
Wadakkancherry, Trichur
5. M. A. Alphonsa, Postal Assistant
Kunnamkulam &
6. K. Sumangali -do -

Respondents

M/s. K. Ramakumar
C. P. Ravindranath &
E. M. Joseph

Counsel for applicant

Mr. P. A. Mohammed, ACCSC

Counsel for R 1-- 3

M/s. M. Ramachandran &
P. V. Abraham

Counsel for R-4 to 6

O R D E R

Hon'ble Shri G. Sreedharan Nair

In the latter part of the year 1980, a scheme was introduced in the Postal Department for the constitution of a standing pool of trained reserve candidates in Posts and RMS offices in the cadres of Postal Assistants and Sorting Assistants. According to the scheme, at the time of each recruitment after the Select List is drawn up, a specific additional reserve list of candidates equal in number to 50% of the number of candidates in the main Select List is also to be drawn up. The candidates in the reserve list are also to be imparted training like the candidates in the main list, and after training, the candidates in the reserve list will constitute a standing pool of trained reserve and will be absorbed in regular after vacancies in their turn, / the candidates in the main list are absorbed. Till such absorption, they will be used as short duty staff against vacancies due to ~~le~~ absenteeism or similar reasons. Before the subsequent recruitment process is commenced, the list of reserve candidates awaiting absorption has to be looked into and only after absorbing them against the vacancies for the

l

subsequent recruitment will any fresh recruits be inducted in service.

2. The applicants are reserve trained pool Postal Assistants in the Postal Division of Trichur, having been duly selected. They have undergone training as well. Their grievance is that before absorbing them in the regular vacancies, the respondents 4 to 6 have been appointed on compassionate ground. According to the applicants, when the candidates in the regular list are exhausted, they/have been preferred to respondents 4 to 6. The applicants pray for the issue of an immediate direction to the respondents 1 to 3 to appoint them in the existing vacancies of Postal Assistants and for a declaration that respondents 4 to 6 be ranked junior to them.

3. The respondents 1 to 3 have filed reply wherein it is stated that the absorption of the applicants and similarly situated RTP candidates in the Trichur Postal Division has been delayed on account of the ban imposed by the Government of India with effect from 1.12.1983 regarding the filling up of vacancies. It is admitted that the applicants will be absorbed against regular vacancies according to their turn as and when vacancies arise. With respect to the respondents 4 to 6, it is contended that they were selected in relaxation of

normal recruitment rules on compassionate grounds, based on the instructions contained in the letters of the Postmaster General that such candidates should be given priority over RTP candidates and should be brought into the top in the list of candidates in the Waiting List if no vacancy is available to absorb them forthwith.

4. The point that was vehemently canvassed by Advocate Mr. K. Ramakumar on behalf of the applicants was that when the applicants have been regularly selected and have undergone training as well, ^{and are} ~~in~~ eagerly waiting the queue for absorption, the appointment of the respondents 4 to 6 in the vacancies that arose is illegal as violative of Articles 14 and 16 of the Constitution of India. When it is noticed that the appointment of the respondents 4 to 6 is in relaxation of normal recruitment rules, based on compassionate grounds, the ~~applicants'~~ counsel loses any persuasive value. Side by side, with the scheme for the constitution of the Reserve Trained Pool, there is also in the Postal Department the scheme relating to the employment in relaxation of the recruitment rules, of dependants of ~~P & T~~ employees who are retired on medical grounds or who die in harness. In either case, there are instructions of the Director General, Posts & Telegraphs governing the same. As such, there is no illegality in the appointment of the respondents 4 to 6 who are admittedly dependants falling under the aforesaid category. Nor can it be said that it is in any way unfair

to appoint the dependants before all the candidates in the RTP are absorbed. The basic principle on which such appointments of the dependants is made is the need to provide immediate assistance to the family of a deceased/ invalidated employee, in a case where the family is in indigent circumstances. Invariably such appointments are made in deserving cases immediately after the death or the invalidation of the employee. As such, to postpone the appointment till all the candidates in the Reserve Trained Pool are absorbed, will be totally ~~in~~ ^{opposed to} of the object underlining the appointment. It is also to be emphasised that there is nothing in the scheme relating to the creation of the Reserve Trained Pool to defer such appointment till the appointment of all the Reserve Trained Pool candidates. The plea of the applicants that there is violation of Articles 14 and 16 of the Constitution of India has to be repelled as the applicants cannot ~~not~~ ^{not} equate themselves ~~not~~ the respondents 4 to 6. The plea of equality enshrined in the Constitution is not to be revoked by unequal. ...6

5. It was also submitted on behalf of the applicants that in any event, the respondents 4 to 6 will have to rank junior to them with reference to the date of occurrence of the vacancies. In view of what has been said earlier, this argument also has to be rejected. When the applicants have not even been appointed, and respondents 4 to 6 have

been validly appointed to the vacancies that arose, the applicants cannot in law claim seniority in the cadre over the respondents 4 to 6.

6. At the time of hearing, it was submitted by the counsel for the applicants that after the filing of the application, some of the applicants have been regularly absorbed. Respondents 1 to 3 have stated in the reply that all the applicants will be absorbed against regular vacancies according to their turn as and when such vacancies arise. We record the submission.

7. It follows that the applicants are not entitled to the immediate directions prayed for. Nor can they claim the declaration prayed for.

8. The application is dismissed.

Dr Sreedharan Nair
(G. Sreedharan Nair)
Judicial Member
3.3.1989

S. P. Mukerji
(S. P. Mukerji)
Vice Chairman
3.3.1989

kmn