

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED 30.3.1990

PRESENT

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

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 30/90

K. Krishnan

Applicant

Vs.

1. Superintendent of Post Offices,
Cannannore Division,
Cannanore-1
2. Director of Postal Services,
Northern Region, Calicut 673 032
3. Post Master General, Kerala Circle
Trivandrum
4. Director General of Posts,
Sanchar Bhavan, New Delhi-11
5. Union of India represented by
its Secretary to Ministry of
Communications, New Delhi
6. The Sub Divisional Inspector of
Post Offices, Payyannur Sub Division
Payyannur and
7. K. Vasanthakumari
House No. PP VIII/20 Karode,
Chithappilepoyil P.O.
Pariyaram (Via)

Respondents

Mr. A. K. Basheer

Counsel for the
applicant

Mr. T. P. M. Ibrahim Khan, ACGSC

Counsel for R 1-6

Mr. O. V. Radhakrishnan

Counsel for R-7

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

This application is filed against Annexure-1
order of termination which reads as follows:

" Under Rule 6 of P & T ED Agents (Conduct and Service) Rules 1964, the services of Sri K. Krishnan, Branch Postmaster, Chithappilepoyil are terminated with immediate effect."

2. The applicant is a member of Scheduled Caste belonging to the pulaya community. He passed SSIC with very high marks and he was selected as Extra Departmental Branch Post Master, Chithappilepoyil Branch Post Office within the Cannanore Postal Division after following the procedural formalities for a regular selection. According to the applicant the selection was made at the time when the policy of the Central Government to give preference to SC/ST candidates for all appointment was in force. Pursuant to the appointment he was directed to find out and obtain a suitable building for starting the said Branch Post Office. Accordingly he located an ideal building which was approved by the sixth respondent and the said BPO started functioning from 15.7.1989 but the applicant was not posted as EDBPM in that post office. Only a Mail Overseer was put in charge of the post office.

3. The applicant submitted representations for getting a posting as EDBPM. Considering the same and with due approval of the second respondent, the first respondent by order dated 23.8.1989 appointed the applicant as EDBPM, Chithappilepoyil and he underwent training from 28.10.1989. He also took charge of the BPO on 6.11.1989.

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4. On 8.1.1990 the applicant was served with the impugned order terminating his service with immediate effect. He submits that there was an enquiry without any notice to him and a report Annexure R-1(a) was submitted by the sixth respondent stating that the applicant is not a permanent resident of the village where the post office is located. The impugned order is the result of this enquiry.

5. According to the applicant he is residing in Pariyaram village in a locality called 'Iringal' within the Payyannur Sub Division of the Cannanore Postal Division, which is hardly 1 Km away from the newly opened BPO at Chithappilepoyil. He has produced Annexure A-2 memo No. 258 dated 24.7.1989 issued by the Supdt. of Post Offices, Cannanore Division which discloses that the following localities will be served by the new branch post office:

"Chithappilepoyil, Iringal, Andankulam, Kuttiyarikadavu and Kunchal (beyond Kurampeedika)."

Before the opening of the new branch these localities were served by Periyaram SO and Kuppam EDSO.

6. In the counter affidavit filed on behalf of the respondents 1 to 6 it has been admitted that Chithappilepoyil BPO was opened to serve the localities namely Chithappilepoyil, Andankulam, Kutt이어ikadavu, Kavungal and a portion of Iringal originally served by Periyaram Sub Post Office and Kuppam EDSPO. It is

further admitted that among the five candidates sponsored by the Employment Exchange for the selection the applicant was adjudged to be ^{by} the No. 1. Accordingly, the sixth respondent was directed by the first respondent to enquire whether the applicant is a resident within the delivery jurisdiction of the proposed BPO. The sixth respondent after enquiry was of the opinion as disclosed in Annexure R-1(a) report dated 15.7.89 that Chithappilepoyil BPO will serve only portion of the vast Iringal locality served by Kuppam EDSO. The major portion of Iringal is under the delivery area of Chithappilepoyil BPO. The applicant who resides within the delivery area of Periyaram Sub Office is not a resident of the delivery area of Chithappilepoyil BPO.

7. But after considering the representation and Annexure R-1(b) report the first respondent passed the order of appointment in the following manner:

"DPS in his letter No. Staff/23.2.85 dated 18.8.1989 has while considering the representation for K. Krishnan, Iringal Thiruvattur P.O., Taliparamba stated that Sri K. Krishnan is a harijan and he has more marks than any other eligible candidates. He has asked that if residence condition is not fully satisfied by Sri Krishnan he may be told to fulfil it. DPS has however ordered that his appointment need not be denied on that ground and Sri Krishnan is to be appointed.

Sri K. Krishnan may be appointed after observing all appointment formalities including training."

8. Having heard the matter the question to be decided is whether the cancellation of the appointment

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of the applicant as EDBPM on the ground that he is not a permanent resident of the village where the new branch post office is located can be upheld on the facts and circumstances of the case especially when he shifted residence as ordered by DPS. ^b

9. The respondents 1 to 6 in the counter admitted only a ^b that/portion of 'Iringal' in which the applicant permanently resides with his parents is ~~xxx~~ ^b now within the delivery jurisdiction of Chithappilepyil BPO. This is also clear from Annexure R-1(B) Report submitted by the sixth respondent after enquiry. It shows that undivided 'Iringal' locality was served by Kuppam EDSO and Thiruvattoor BO. It further establishes that after the opening of the Chithappilepoyil B.O. a small portion of 'Iringal' locality came within the delivery jurisdiction of this post office, but the rest of it remained part of the ^b neighbouring B.O. in which the applicant is residing. The distance from the Branch post office in which the applicant is posted as EDBPM and his residence is hardly 1 K.M.

10. With these basic facts if we examine the main purpose of the 'condition of residence' in Instruction No. 1(4) of the 'Method of Recruitment' in the EDDA Conduct and Service Rules, we can see that the applicant satisfies the requirements of this condition. The relevant condition reads as follows:

^b " The EDBPM/EDSPM must be a permanent resident of the village where the post office is located. He should be able to attend to the post office work as required of him keeping in view the time of receipt, despatch and delivery of mails which need not be adapted to suit his convenience or his main avocation."

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The main purpose of the condition regarding residential qualification for selection is that the concerned EDBPM when appointed in the Post Office should be able to attend to the work of the Post Office as required by him keeping in view of the time of receipt, despatch and delivery of mail in the said post office. There is no case for the respondents that the applicant is not available to discharge duties due to his residence being located beyond the delivery jurisdiction of the BPO in which he was appointed. Hence the purpose of the residential condition is not defeated.

requires consideration. ✓

11. There is also another aspect which/Annexure R-1(C) letter No. STA/1/28/Rlgs/III dated 23.4.81 issued by the third respondent provides that when there is difficulty in getting candidates for fulfilling residential conditions, appointment can be made from outside the delivery area but prior approval from the Post Master General should be obtained. This indicates ✓ that the condition for the residential requirement is not a without any relaxation. ✓ strict condition which should be followed scrupulously/

12. In the instant case Annexure-4 order of appointment shows that the first respondent directed to appoint the applicant after considering all the aspects and the report Annexure R-1(B). It is to be presumed that ✓ the first respondent had given approval of the appointments of the applicant knowing fully well that he is not a permanent

resident within the delivery jurisdiction of the Chithappilepoyil BPO. Hence we are of the view that the appointment of the applicant is a valid one.

13. A similar question came up for consideration before this bench (same bench) in OA 60/89. We have interpreted the identical clause in the notification in a reasonable manner adhering to the ordinary meaning of the words used in it and held as follows:

" The so called 'Golden Rule' of interpretation of the statute can be applied to the instructions as well. We have to "ad-here to the ordinary meaning of the words used, and to the gramatical construction, unless that is at variance with the intention of the legislature." And in so doing the Courts and the Tribunals have the freedom to 'adopt that which is just, reasonable and sensible rather than that which is none of those things." See Nasiruddin V. State Transport Appellate Tribunal (AIR 1976 SC 331). The Supreme Court held in Paradise Printers Vs. Union Territory of Chandigarh (AIR 1988 SC 354), that an interpretation which least offends our sense of justice should be adopted or in other words a meaning of the statute which produces an unreasonable result is to be rejected in favour of that which does not and the Courts or Tribunals as far as possible interpret the rule which is agreeable to justice and reason."

14. In that case the applicant was appointed as EDBPM of a post office, but due to marriage though she was compelled to change her residence from the delivery jurisdiction of the post office in which she was appointed and xxxxxxxx resident with her husband in the neighbouring area, she was easily available for the work of the post office in which she was appointed. Having considered such a situation we have held as follows:

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" Hence, we are of the view that her appointment given in 1983 can not be cancelled on this ground alone. As indicated above the condition of residential qualification is a condition precedent intended only to facilitate that the appointee be easily available for work and would also be in touch with the people of the locality for catering to their needs."

15. It is clear from the facts that the locality in which the applicant in the instant case is residing and the area in which the new branch post office was established by carving out some portion of the village are situated in the same village. So even going by the wording contained in the 'condition of residence' in the above instruction for the recruitment of EDBPMs, the applicant cannot be disqualified and hence we are of the view that the cancellation of his appointment is illegal.

16. The seventh respondent who got herself impleaded in this case by filing M.P. 65/90 was also heard. She competed along with the applicant for the regular selection and got the appointment only after the cancellation of the applicant's appointment since she secured the second rank in the list prepared for appointment after interview. But in view of the interim order passed in this case the applicant is continuing and the seventh respondent could not be permitted to join duty. The seventh respondent argued that the applicant is not residing within the delivery jurisdiction of the new branch post office and there is no valid appointment order having been issued by


competent authority to him.

17. According to us there is no substance in this argument because Annexure-4 order issued by the Supdt. of Post Offices, Cannanore Division discloses that there is proper direction to appoint the applicant after observing all formalities for a valid appointment. We will assume that this direction was strictly carried out in accordance with law and it was thereafter the applicant was sent for training from 28.10.1989 and allowed to assume charge on 6.11.1989.


18. Annexure-1 cancellation is not a speaking order. [✓] it indicate that it was issued after It was neither issued after application of mind nor does/ consideration of any of the aspects dealt with above. Hence the order is illegal.

19. On the facts and circumstances of the case we are of the view that this application is to be allowed.

20. Accordingly we allow the application but without any order as to costs.


30.3.'90.

(N. Dharmadan)
Judicial Member


31/3/90

(N. V. Krishnan)
Administrative Member

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