

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.301/06

Monday this the 25th day of September 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

Smt.A.Ushakumari,
W/o.Thulasidharan Nair,
Part Time Sweeper-cum-
Scavenger,Gardener & Water Carrier,
Nedugolam Sub Post Office,
Kollam South Sub Division, Kollam Division.
Residing at Kunnumpurath Veedu,
Nedumgolam, Kollam District.

...Applicant

(By Advocate Mr.Shafik.M.A.)

Versus

1. Union of India represented
by Chief Postmaster General,
Kerala Circle, Trivandrum – 695 033.
2. The Senior Superintendent of Post Offices,
Kollam Division, Kollam.
3. The Assistant Superintendent of Post Offices,
Kollam South Sub Division, Kollam Division.

...Respondents

(By Advocate Mr.Sunil Jose,ACGSC)

This application having been heard on 25th September 2006 the
Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A joined as Part time Sweeper at
Nedumgolam Post Office and is working there, admittedly, since 1972.
According to her she has passed 8th Standard and fulfills all the requisite
qualifications to be appointed as GDS MD. She is aggrieved by the
Annexure A-1 notification issued by the 3rd respondent dated 12.4.2006
inviting application for selection to the post of GDS MD, Nedumgolam Post

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Office. As per the instructions issued by the 1st respondent vide letter dated 6.6.1988, Part Time casual labourers working under the Department have to be given preference while making appointments to the vacant posts of EDs. The applicant has approached this Tribunal on this count and we have directed that further action on the basis of Annexure A-1 shall be kept in abeyance.

2. The respondents have filed a reply statement duly submitting that they have kept in abeyance all actions including the appointment of the candidates. They also submitted in the reply statement that pursuant to Annexure A-1 notification, the list of 9 candidates was sponsored by the Employment Exchange and 7 candidates including the applicant were invited for verification of documents and cycling test. The document verification and cycling test was conducted on 25.5.2006. On the basis of the verification and test, one Smt.L.Muneera, who got the highest mark in SSLC, was selected to the post of GDS MD, Nedumgola. But the appointment is kept in abeyance. Respondents, though admit that Part time casual labourers have to be given preference, have stated that this preference is conditional and they have to fulfill all other conditions as prescribed in the Recruitment Rules and that work of a GDS includes outdoor duties, therefore, knowledge of cycling is a pre-requisite.

3. The applicant has filed a rejoinder stating that in the cycling test conducted, the respondents have given a gents cycle to her for verification of cycling prowess and therefore, she was not able to ride the same. The counsel also pointed out that the respondents have violated the interim orders of this Tribunal issued on 22.5.2006 and have conducted a selection on 25.5.2006.

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4. In the light of the rejoinder and reply statement of the respondents, the counsel for the respondents was directed to file a counsel statement explaining how the selection was proceeded with in the face of the interim direction of this Tribunal. The counsel has filed a statement submitting that the proceedings of this Tribunal staying the notification was received by the 3rd respondent only on 25.5.2006, hence the certificate verification and the cycling test which was already intimated and scheduled at 11:00 AM on that date was taken up as it could not be rescheduled. It is also submitted that both gents and ladies cycles were provided for conducting the test and all the 9 lady candidates including the applicant were given ladies cycle but only 2 of them could ride the same. The respondents have also submitted in paragraph 7 of the statement that they have no hesitation to conduct a cycling test again if so directed by this Tribunal.

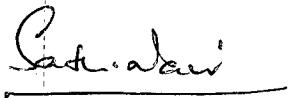
5. Considering all the above submissions, we are of the view that, first of all, the respondents should not have conducted the selection when there was a specific order of this Tribunal against conducting the cycling test and documents verification, which was received by them, admittedly, on the date of the test. Since the applicant is seeking selection in accordance with the DG P&T letter's dated 6.6.1988 which gives a preference to the Part time workers in the Department, the need for conducting any selection would arise, only, if the candidature of the applicant to be given a preferential treatment is not found eligible in accordance with the Rules. There is, therefore, no need to go ahead with the selection inviting other candidates as the applicant's suitability according to the Rules prescribed was to be determined first. Since doubts have also been raised about the non provision of a ladies cycle to the applicant, we are of the view that, in all fairness, cycling test shall be conducted again to give a fresh

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opportunity to the applicant and the OA can be disposed of by giving such a direction to the respondents to subject the applicant to a cycling test. Further, if the applicant is prepared to take her own ladies cycle with her, as submitted by the counsel for the applicant, the respondents shall permit her to do the same. Respondents shall conduct the cycling test accordingly within a period of three weeks from the date of receipt of a copy of this order. Only if the applicant is not found to qualify in the test or meet the other conditions prescribed for the post, the respondents could go ahead with the proposed selection. O.A is allowed to that extent. No order as to costs.

(Dated the 25th day of September 2006)


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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