

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.308/2001.

Monday this the 9th day of December 2002.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

R.Valsalakumari Amma,
W/o Sivasankara Pillai,
Sindhu Sadanam, Kovoor, Mynakapuzha Village,
Arinallur P.O., Kollam District.
Now working as Part-time contingent Sweeper/
Scavenger in Arinallur Sub Post Office. Applicant

(By Advocate Shri K.K.Balakrishnan)

Vs.

1. Union of India, represented by Director General of Post, India, Department of Posts, New Delhi
2. Sub Divisional Inspector of Post Offices, Karunagappally Sub Division, Karunagappally P.O., Pin-690 518.
3. The Sub Post Master, Arinallur P.O., Arinallur. Respondents

(By Advocate Shri A.Satianathan, ACGSC)

The application having been heard on 9th December 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant who is admittedly working as Part-time Contingent Sweeper/Scavenger in Arinallur Sub Post Office under the Karunagappally sub division, is aggrieved by A-4 notification dated 19.2.2001 whereby, the second respondent has invited applications from outsiders for appointment to the post of Part-time Contingent Sweeper/Scavenger, Arinallur, ignoring her long service as Part-time contingent Sweeper in the very same office. The facts are not seriously disputed in this case. The applicant admittedly has well over 240 days of service to her

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credit. The applicant seeks preferential treatment over others in the matter of regular appointment as Part-time contingent Sweeper. Being aggrieved by the impugned notification A-4, the applicant prays for the following reliefs:

- a) "To quash the Annexure A-4 impugned order and to direct the respondents to drop all the proceedings for the selection of Part-time contingent Sweeper/Scavenger at Arinallur Sub Post Office from outside candidates.
- b) To restrain the respondents permanently from terminating the service of the applicant from the post of Part-time contingent Sweeper/Scavenger at Arinallur Sub Post Office.
- c) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

2. When the matter came up for admission on 4.4.2001, this Tribunal ~~has~~ granted an interim relief staying the proceedings in pursuance of the impugned notification A-4, and accordingly the applicant is continuing in her post. The applicant claims to have made a representation for allowing her preference in the matter of appointment (No copy of the said representation is available on record).

3. The respondents have filed a reply statement resisting the claim of the applicant. The main contention put forward by the respondents against the applicant's claim is that the applicant's engagement as Part-time contingent Sweeper has been a stop-gap arrangement, that therefore, the applicant has no vested right to be considered in preference to others and that, although the Employment Exchange has sponsored the names of ten candidates, in addition there were three others including the applicant for

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consideration. Since the applicant would also get a fair opportunity to participate in the selection, no injustice has been done to her, according to the respondents.

4. We have gone through the records and heard Shri KK Balakrishnan, learned counsel for the applicant and Shri A.Sathianathan, ACGSC appearing for the respondents. Learned counsel of the applicant would submit that, in view of the admitted fact that the applicant has been working as Part-time contingent Sweeper in Arinallur P.O. since 5.10.1996, the applicant had a preferential claim to appointment and the notification calling for applications from outsiders was unsustainable as it militated against the instructions of Director General of Posts in this regard. Learned counsel also would invite our attention to a large number of orders of this Tribunal upholding similar claims. Learned ACGSC, on the other hand would state that the applicant's engagement being stop-gap in nature, she could not have any vested right in the matter of appointment. The notification was made bonafide and in accordance with the procedure laid down for the purpose. Since the applicant also got an opportunity to participate in the selection, it cannot be said that any injustice is done to her.

5. On a consideration of the relevant facts, we are of the view that the applicant having undoubtedly put in more than 5 years of service as Part-time contingent Sweeper at the relevant point of time, has reached the required bench mark viz., 240 days

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of service. As such, she is eligible to be considered in preference to others in the matter of regular employment. This position is confirmed by the Director General of Posts vide his letter No.17-141/88-EDC& Trg.dated 6.6.1988 and followed by the Chief Postmaster General, Kerala Circle, Trivandrum.

6. In the circumstances, setting aside the impugned notification A-4 dated 19.2.2001, we direct the respondents to consider the applicant for the post of Part-time contingent Sweeper/Scavenger at Arinallur P.O. within the Karunagappally sub division and pass appropriate orders thereon within a period of two months from the date of receipt of a copy of this order.

7. There is no order as to costs.

Dated the 9th December, 2002.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures:

1. A-1: The true photocopy of the 1st page of the SSLC Book of the applicant.
2. A-2: The true photocopy of the 6th page of the SSLC Book of the applicant.
3. A-3: The true photocopy of the registration No.W 793/81 at Employment Exchange, Kollam in the year, 1981.
4. A-4: True photocopy of the Impugned Order-Notice issued by the 2nd respondent dated 19.2.2001 inviting applications for appointment to the post of PT Contingent/ Scavenger at Sub Post Office, Arinallur.

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