

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION: 30.1.1990

P R E S E N T

HON'BLE MR.S.P.MUKERJI - VICE CHAIRMAN

AND

HON'BLE MR.A.V.HARIDASAN - JUDICIAL MEMBER

ORIGINAL APPLICATION NO.309/89

N.Manoharan - Applicant

Versus

1. The Sub Divisional Inspector,  
Postal, Perumbavoor.

2. The Union of India rep.  
by Secretary to Govt.,  
Ministry of Communications,  
New Delhi.

3. A.P.Sivarajan,  
Anjanparambu,  
Mudakkirai,  
Kuruppampadi,  
P.O.Perumbavoor. - Respondents

Mr.M.R.Rajendran Nair - Counsel for applicant

Mr.P.V.Madhavan Nambiar, - Counsel for respondents  
SCGSC

O R D E R

(Mr.A.V.Haridasan, Judicial Member)

who

The applicant has been working as E.D.Messenger  
in Kuruppanpady Post Office since 20.3.1989 has filed  
this application under Section 19 of the Administrative  
Tribunals Act, praying that the proposed termination of  
his service may be set aside, and that the respondents  
be directed to consider him for regular appointment  
as E.D.Messenger.

2. The facts of the case in brief are as follows.

3. The applicant was appointed as E.O.Messenger on a provisional basis in Kuruppanpady Post Office w.e.f. 20.3.1989. While so the first respondent called for nominations from the local Employment Exchange to be considered for selection for regular appointment to that post. The applicant who belongs to Velan community which is one of ~~of~~ the Scheduled Castes and who possess all the prescribed qualifications for regular appointment to the post of E.O. Messenger has filed this application praying to restrain the respondents from ousting him by selecting a person nominated from the Employment Exchange without considering him, as his name registered in the Alleppey Employment Exchange in the year 1975 could not have been forwarded, since only the local Employment Exchange was notified. The applicant's case is that since he has got the requisite qualifications and also because he belongs to the Scheduled Caste, he has got a preferential right to be considered for the post. It has also been averred that the proposed termination of his services would be violative of section 25 G and H of the Industrial Disputes Act.

4. The respondents have filed a reply statement in which it has been averred that the applicant who

has been provisionally appointed only for 89 days has absolutely no right to be considered for regular selection since his name has not been sponsored by the Employment Exchange and since recruitment to the post of E.O. Agent is to be made only through the Employment Exchange as per the existing instructions of DGP&T. The claim of the applicant under the Industrial Disputes Act also has been disputed. It has been further averred that since one Sri Sivarajan who is one among the candidates sponsored by the Employment Exchange has been selected, he has a superior right to be appointed and that the application is only to be dismissed.

5. We have heard the arguments of the learned counsel and have also perused the documents produced. The applicant had been working as a provisional E.O. Messenger only from 20.3.1989. The appointment was only for 89 days. Since he has not worked for sufficient length of time, he is not entitled to any benefit under the provisions of Industrial Disputes Act. His challenge/the mode of recruitment resorted to by the respondents is unsustainable because appointment to the post of E.O. Messenger is to be made through Employment Exchange as per the instructions contained in the letter of DGP&T No.45-22/71-SPB I/Pen dt.4.9.'82,

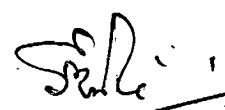
a copy of which is at Annexure-R2. Further, the vacancy need to be notified only to the local Employment Exchange and it is not necessary to give any other publicity calling for applications. Therefore, there is absolutely nothing wrong in the process of selection initiated and completed by the respondents to fill the vacancy of E.D.Messenger in the Kuruppanpady Post Office in a regular way. The applicant though not sponsored by the Employment Exchange could have submitted application for the post and if the respondents refused to consider him, he could have approached this Tribunal sufficiently in advance, so that direction could have been given to consider him also along with those sponsored by the Employment Exchange. Since the applicant has not made such an application, the respondents would not have been even known whether he was interested in continuing in the post of E.D.Messenger at Kuruppanpady Post Office on a regular basis. Since as stated in the reply statement one Shri Sivarajan has been selected for appointment to the post on a regular basis, the applicant has no right to continue in the post being an obstacle to the appointment of Sivarajan.

6. In the result we find no merit in the application and therefore, we dismiss the same. But we hope that

the respondents would try to accommodate the applicant in any other provisional vacancy of E.D.Agent arising within the division in the near future.

7. There is no order as to costs.

  
(A.V.HARIDASAN)  
JUDICIAL MEMBER

  
(S.P.MUKERJI)  
VICE CHAIRMAN

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