

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 314 of 1994

Friday this the 18th day of February, 1994

CORAM

THE HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

THE HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Kunhadi M,
Moothedath House,
PO Kodinhi-676 309. ...Applicant

(By Advocate Mr.PK Aboobacker/PK Ibrahim)

Vs.

1. The Assistant Supdt. of Post Offices
Sub Division Office, Postal
Tirur.
2. The Sub Post master, Kodinhi
Thirurangadi.
3. C.Sreenivasan
Extra Departmental Delivery Agent,
Kodinhi Post Office. ...Respondents

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN.

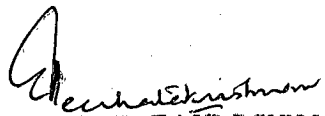
Applicant complains that his services have been terminated by appointing another provisional hand in his place. This according to him is unsustainable in the light of the decision of the Supreme Court in State of Haryana Vs. Piara Singh, AIR 1992 SC 2130. A fact adjudication is required to ascertain whether the impugned action is proper or otherwise.


2. Applicant may make a representation before the 1st respondent and the said respondent shall take

a decision thereon within ten days of the date of receipt of the representation.

3. Application is disposed of with the aforesaid directions. No costs.

Dated 18th February, 1994.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 1834/91 ~~199~~

DATE OF DECISION 7.4.1993

Shri K. Mohanan Applicant (s)

Shri MK Damodaran Advocate for the Applicant (x)

Versus

Union of India (Secretary, Min. of Communications) Respondent (s) & 2 others.

Shri V Ajith Narayanan, ACGSC Advocate for the Respondent (s) 1 & 2.

CORAM :

The Hon'ble Mr. SP Mukerji - Vice Chairman
&

The Hon'ble Mr. AV Haridasan - Judicial Member

JUDGEMENT

(Hon'ble Shri AV Haridasan, JM)

The applicant, a resident within the area of Thayyalingal Post Office, was working in various ED posts in the Thayyalingal Post Office as a substitute from 1984 onwards. From 17.7.1990 onwards, he was working as ED Mail Carrier in the Thayyalingal Post Office. When the regular incumbent in that post was put off duty with effect from 5.6.1991, the applicant was provisionally appointed as EDMC from that date and he continued on a provisional basis at the time when the application was filed. He had registered his name with the Employment Exchange, Malappuram on 7.6.1977 and his registration was transferred to Tirur

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Town Employment Exchange in 1989. While the applicant was working as an ED Mail Carrier on provisional basis in Thayyalingal Post Office, the Assistant Superintendent of Post Offices, Tirur, the 2nd respondent, initiated steps for filling up the post of ED MC, Thayyalingal on a regular basis by placing a requisition with the Employment Officer. In terms of the notification issued through the Employment Exchange, those who had registered with the Employment Exchange Tirur, before 1984 and those who are permanent residents within the area of Thanur Post Office as on 25.8.1991 alone were eligible to apply. However, the applicant's candidature was not sponsored by the Employment Exchange though he has been continuously working against the post for which selection on a regular basis was being made. Coming to know that the interview was scheduled to be held on 3.12.1991, the applicant has filed this application on 2.12.1991 praying that the regular selection to the post of ED MC, Thayyalingal P.O. on the basis of the interview to be held on 3.12.1991 without considering him was illegal and for a direction to the respondents to consider the applicant also for regular selection. On 3.12.1991, after admitting the application, an interim order was issued directing that the applicant should also be considered on a provisional basis for selection to the post of ED MC, Thayyalingal Post Office in the interview to be held on 3.12.1991 or if necessary, an interview should be held within a period of 15 days from that date. It was further directed that the result of the selection should not be announced without prior permission of the Tribunal. But it appears that the interim order was not communicated to the 2nd respondent on 3.12.1991. As a result, the interview was held without considering the applicant and ~~that~~ the 3rd respondent was selected and appointed terminating the services

of the applicant. Thereafter, the applicant impleaded the 3rd respondent and amended the original application seeking to declare the appointment of the 3rd respondent illegal and for a direction to the respondents to make a fresh selection to the post of ED MC, Thayyalingal considering the name of the applicant also. The applicant has averred that the respondents 1 & 2 have gone wrong in not considering the candidature of the applicant who is a working ED Agent even inspite of repeated rulings of this Tribunal that a working ED Agent should be considered for regular selection even though not sponsored by the Employment Exchange.

2. The 3rd respondent though served with notice, did not appear. The respondents 1 & 2 in their reply statement have contended that the applicant whose name was not sponsored by the Employment Exchange has no right to be considered for regular selection and that as the applicant is a resident in the area of Thayyalingal Post Office, he is not eligible to be considered for selection to the post of ED MC because he should be a resident within the area of Thanur Post Office since the mail originates and terminates in Thanur Post Office. They have contended that as the interim order was not communicated to the 2nd respondent on 3.12.1991, the 3rd respondent, a resident of Thanur village being found the most eligible and suitable among the candidates sponsored by the Employment Exchange was selected and appointed on the very same day. The respondents have also contended that as the services of the applicant were utilised only as a temporary measure, he did not have any right to be considered for regular selection.

3. Having heard the counsel for the parties and having perused the pleadings and documents on record, we are of the view that the selection restricted to residents of Thanur