

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.32/05

Thursday this the 4<sup>th</sup> day of August 2005

**C O R A M :**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN**

R.Rameshkumar,  
Group D (Officiating),  
Vaikom Head Post Office,  
Vaikom, Kottayam.

...Applicant

(By Advocate Mr.P.R.Padmanabhan Nair)

**Versus**

1. Inspector of Post Offices,  
Vaikom Sub Division, Vaikom – 686 141.
2. The Postmaster,  
Vaikom Head Post Office, Vaikom.
3. The Senior Superintendent of Post Offices,  
Kottayam Division, Kottayam – 686 001.
4. Chief Postmaster General,  
Kerala Circle, Thiruvananthapuram.

...Respondents

(By Advocate Mr.Sunil Jose,ACGSC)

This application having been heard on 4<sup>th</sup> August 2005 the Tribunal on the same day delivered the following :

**ORDER**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN**

The applicant is working in Group D post on officiating basis at Vaikom Head Post Office. The Postmaster, Vaikom H.O issued memo dated 4.6.2004 proposing to replace the applicant from Group D post by making officiating arrangement on temporary basis. Aggrieved by this the applicant has approached this Tribunal and an interim order was granted allowing him to work in the present capacity.

.2.

2. A detailed reply statement has been filed by the respondents. It is not denied that the vacancy at Vaikom H.O was caused by the voluntary retirement of the earlier incumbent and that the applicant has been working with effect from 1.8.2003. The recruitment process could not commence as the vacancies were not approved for recruitment by the Screening Committee. Engagement of the applicant was only a stop-gap arrangement. Since it was brought to the notice of the Senior Superintendent of Post Offices, Kottayam that seniority of eligible GDS was over looked by the 2<sup>nd</sup> respondent while engaging the applicant as Group D the proposed action has been taken to call for willingness of senior GDS to officiate in the post.

3. I have heard the counsel for the applicant. Counsel for the respondents is not present. The only contention taken by the respondents in their reply statement is that while engaging the applicant seniority was not considered. Though the rules regulating the recruitment to Group D posts have been enclosed in the reply statement I do not find any provisions regarding ad hoc or stop gap appointments and whether any consideration is to be given for seniority while making such officiating arrangements. Counsel for the applicant relied on the judgment of the Apex Court in State of Haryana & Others Vs. Pyarasingh & Others [1992 (4) SCC 118] in which it was held that ad hoc employee cannot be replaced by another ad hoc appointee as this leads to arbitrariness in the consideration for regular appointment. I am, therefore, of the view that the above ratio of the judgment is equally applicable to the present case also. Even though appointment has been termed as stop gap it is to be noted that the employee has been continuing uninterruptedly from 1.8.2003 and any attempt to replace him on the basis of seniority at this stage is

.3.

unwarranted. It is clear from the submission made by the respondents in their reply statement that they are contemplating to make only officiating arrangement and are not considering any regular appointment. Therefore there is no difficulty in continuing the applicant on the present post on ad hoc terms. I am, therefore, of the view that the prayer of the applicant in the O.A deserves consideration. Hence the O.A is allowed. Respondents are directed not to disturb the officiating arrangement in the post at Vaikom H.P.O and continue the applicant in the above post until a regular appointment is made. No order as to costs.

(Dated the 4<sup>th</sup> day of August 2005)

*Sathi Nair*

**SATHI NAIR  
VICE CHAIRMAN**

asp