

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 322 of 2001

Thursday, this the 4th day of October, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. T. Harikumar, S/o late Thankappan,
Sweeper cum Scavenger,
Vadakkumthala East PO, Kollam,
Residing at 'Kattuvila Vadakkethil',
Vadakkumthala East PO, Kollam Dist.Applicant

[By Advocate Mr. M.A. Shihabuddin for Mr. M.A. Shafik]

Versus

1. Union of India, represented by
Secretary/Director General of Posts,
Ministry of Communications, New Delhi-110001
2. The Chief Postmaster General,
Kerala Region, Trivandrum.
3. The Senior Supt: of Post Offices,
Kollam Division, Kollam.
4. The Sub Divisional Inspector of Post Offices,
Karunagappally Sub Division,
Kollam District.Respondents

[By Advocate Mr. R. Madanan Pillai, ACGSC]

The application having been heard on 4-10-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who has been working as part-time Sweeper cum Scavenger in Vadakkumthala East PO, Kollam from 7-1-1997 onwards has filed this application praying for a declaration that he is entitled to be considered for appointment to the posts of ED Packer Arinallur, EDMC Mynagapally, EDDA Mynagapally North and especially ED Packer Manapally North in preference to outsiders and for a direction to the respondents to consider his candidature also for these posts. The applicant requested the Sub Divisional Inspector of Post Offices, Karunagapally as also the Senior Superintendent of

Post Offices, Kollam Division by his representations A-2, A-3 and A-4 to consider him for appointment to these posts giving him due preference in terms of the instructions of the DG Posts in that regard. Finding no response, the applicant has filed this application.

2. Respondents in their reply statement contend that the applicant was not appointed through the Employment Exchange on a regular basis as part-time Sweeper-cum-Scavenger, but was engaged only as a stop gap arrangement and that the process of a regular selection has now been initiated. The applicant having been not appointed as a part-time Sweeper-cum-Scavenger on regular basis, the respondents contend that he has no claim for any preference in appointment to ED posts.

3. We have heard the learned counsel on either side and perused the records. According to the directions contained in the DG Posts letter dated 6th June, 1988, casual labourers, part-time or full time, who have completed one year service have a preferential right to be considered for appointment on ED posts. It is not in dispute that the applicant has been working as part-time Sweeper-cum-Scavenger from 7-1-1997 onwards. It is contended by the respondents that the applicant was not engaged on a regular basis, but only as a stop gap arrangement. Having continued the applicant as part-time Sweeper-cum-Scavenger for the last four years, it is not open to the respondents to contend that the applicant cannot be treated as a part-time Sweeper-cum-Scavenger as his appointment was only a stop gap arrangement. A stop gap arrangement is generally made during the pendency of a regular selection. In this case, as the applicant has been continuing as Sweeper cum Scavenger for the last four years it has to be held that the respondents have treated the engagement of the applicant as a part-time Sweeper-cum-Scavenger as a regular one. Thus, the

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contention of the respondents that the applicant is not entitled to any preference in Extra Departmental appointments as per the letter of DG Posts dated 6th June, 1988, is only to be rejected. The learned counsel of the applicant stated that the applicant would confine his claim only to the post of Extra Departmental Packer, Manapally North Post Office. The learned counsel of the respondents pointed out that appointment to the post of Extra Departmental Packer, Manapally North Post Office can be made only on a provisional basis as the regular incumbent of that post is served in the Army Postal Services and there is a chance of his returning. The learned counsel of the applicant stated that the applicant is prepared to take that risk and still want to be considered against the post of Extra Departmental Packer, Manapally North Post Office even on a provisional basis.

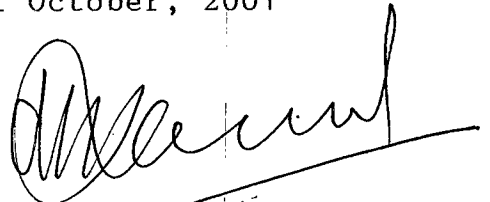
4. In the conspectus of facts and circumstances, we are of the considered view that in the interest of justice, the respondents should be directed to consider the applicant for appointment to the post of Extra Departmental Packer, Manapally North treating that he is a regular part-time Sweeper cum Scavenger and to appoint him if he is found otherwise suitable. Recruitment from open market to the post is to be resorted to only if the applicant is found to be otherwise unsuitable.

5. We dispose of the Original Application with the above direction. No costs.

Thursday, this the 4th day of October, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
JUDICIAL MEMBER

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APPENDIX

1. Annexure A1: True copy of the letter No.ST/307/88-Rlgs dated 2.1.96 issued by the respondent No.1
2. Annexure A2: True copy of the representation dated 17.3.2001 submitted before the IVth respondent.
3. Annexure A2a: True English translation of Annexure A-2.
4. Annexure A-3: True copy of the representation dated 22.3.2001 submitted before the IIIrd respondent.
5. Annexure A-3a: True English translation of Annexure A-3.
6. Annexure A4: True copy of the representation dated 2.4.2001 submitted before the IVth respondent.

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