

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.322/04

Friday this the 18th day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K.HAJRA, ADMINISTRATIVE MEMBER

K.Gopalakrishnan Nair
S/o.K.N.Krishnan Nair,
Gramin Dak Sevak Mail Deliverer,
Kumarankary P.O.,
Residing at Kalathiparambil House,
Kumarankary P.O., Changanasserry.

Applicant

(By Advocate Mr.P.C.Sebastian)

Versus

1. The Assistant Superintendent of Post Offices,
Changanasserry Sub Division,
Changanasserry - 686 101.
2. The Postmaster General,
Central Region,
Kochi - 682 016.
3. Union of India represented by
Secretary to Govt. of India,
Ministry of Communications,
Department of Posts,
New Delhi.

Respondents

(By Advocate Mrs.Mariam Mathai,ACGSC)

This application having been heard on 18th June 2004 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 was appointed as GDS MD, Kumarankary Post Office by Annexure A-1 order dated 10.10.2003 on a provisional basis has filed this application for a declaration that he is entitled to continue as GDS MD, Kumarankary P.O. on provisional basis until regular appointment to that post is made and to set aside Annexure A-2 notification issued by the

Assistant Superintendent of Post Offices calling for candidates to be appointed to the post. It is alleged in the application that once the applicant has been appointed on provisional basis the action on the part of the respondents in taking steps to induct another person on provisional basis is arbitrary and illegal and therefore it is necessary to strike down such an action.

2. Smt. Mariam Mathai, ACGSC took notice on behalf of the respondents when the application came up for hearing on 28.4.2004 and sought sometime to get instructions. Today, when the matter came up for hearing Smt. Mariam Mathai, ACGSC states that the applicant was appointed as GDS MD as a stop gap measure pending a process of selection and appointment even on provisional basis and therefore the process of selection is initiated to meet the requirement under Article 14 and 16 of the Constitution.

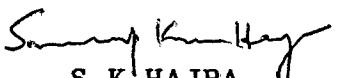
3. We have heard the counsel on either side. Shri. P. C. Sebastian, learned counsel for the applicant, states that the continuance of the applicant from September 2003 till date would show that the arrangement was not a stop gap and a provisional one and it is not just, proper to replace the applicant with another provisional hand. Smt. Mariam Mathai, on the other hand, argued that even for the purpose of a provisional appointment if it is likely to continue for sometime to meet the ends of justice and equality in the matter of appointment it is necessary to give all those who are eligible an opportunity to apply and that was why Annexure A-2 notification was issued and therefore the situation does not calls for judicial intervention.

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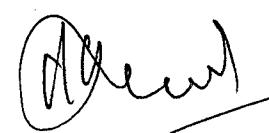
The counsel of the applicant admitted that before the applicant was appointed initially there was no selection but would contend that since that was a provisional appointment which continued for some time it should^s be allowed to continue till regular appointment is made. We do not find any substance in the argument of the applicant's counsel. The initial appointment of the applicant apparently and evidently had been only a stop gap arrangement to tide over emergent situation arising out of the put of duty of the original incumbent of the post. Since the put of duty is likely to continue and there is an likelihood of the original incumbent being subjected to disciplinary proceedings some provisional arrangement on long term basis has to be made. In terms of the extant instructions if the provisional appointment of an EDA is likely to continue for a long time a selection has to be made for intending candidates. Therefore we do not find anything wrong with the action of the respondents in calling for applications. The applicant may compete with others.

4. In the result finding no reason to exercise jurisdiction, we reject the application under Section 19(3) of the Administrative Tribunals Act, 1985.

(Dated the 18th day of June 2004)


S.K.HAJRA
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN