

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.324/98

Friday this the 27th day of March, 1998.

CORAM

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

S. Vijayan,
Extra Departmental Delivery Agent,
Manchavilakom Branch Post Office,
Dhanuvachapuram, Neyyattinkara.

...Applicant

(By advocate Mr. Thomas Mathew)

Vs.

1. Sub Divisional Inspector of Post Offices, Neyyattinkara.
2. Chief Post Master General, Kerala Circle, Trivandrum.
3. Union of India, represented by its Secretary, Department of Posts, New Delhi.

...Respondents

(By advocate Mr. Sunil Jose)

The application having been heard on 27.3.98, the Tribunal on the same day delivered the following:

O R D E R

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

When disciplinary proceedings were contemplated against the Extra Departmental Delivery agent (EDDA for short), Manchavilakom Branch Post Office, the Sub Divisional Inspector of Post Offices, Neyyattinkara offered provisional appointment to the applicant on the post with effect from 1.10.1997 by an order Annexure.A1. It was mentioned in the offer that the provisional appointment would be terminated when a regular appointment is made. The applicant ^{has been} / working on the post ever since thereafter. His present grievance is that while the applicant has been validly appointed on a provisional basis by the Order at A1 and while that appointment is to be tenable till a regular

appointment is made, the respondents are taking hasty steps for recruitment of another incumbent to replace the applicant again on a provisional basis. This according to the applicant is against the provisions contained in the offer of appointment, which he had accepted, as also against the dictum of the ruling of Hon'ble Supreme Court in State of Haryana and others Vs. Piara Singh, JT (1992) (5) SC 179). The applicant has therefore, filed this application for a declaration that the applicant is entitled to continue as EDDA, Manchavilakom till the permanent incumbent rejoins duty or till a regular appointment is made to the post of EDDA Manchavilakom and to direct the respondents not to replace the applicant by another provisional appointee.

2. The respondents contest the claim of the applicant. They contend that as the applicant was appointed on a provisional basis only as a stop gap arrangement, not even being sponsored by the Employment Exchange, now steps are being taken for making another provisional appointment calling nominations from the Employment Exchange. This according to the respondents is unexceptionable and the applicant do not have a case at all.

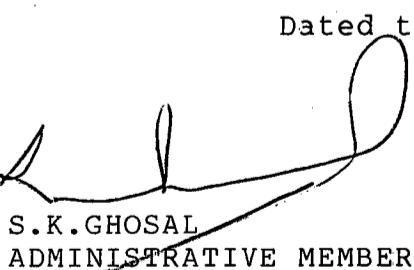
3. Having heard the learned counsel on either side and having given the facts and circumstances our anxious consideration, we are of the considered view that the action of the respondents in initiating steps for another provisional appointment is totally illegal and unjustified. In the offer of appointment A.1 the applicant was given to understand that his provisional appointment would be tenable till a regular appointment is made or till the regular incumbent of the post is reinstated revoking the order of put off. It is with that expectation that he

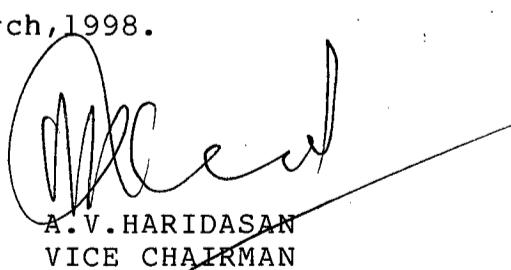
has accepted the offer and joined as a provisional E.D.Agent. This expectation cannot be jeopardised by the respondents just for the reason that the applicant's name was not sponsored by the Employment Exchange. If sponsorship by the Employment Exchange was absolutely necessary, they should have thought of it before offering appointment to the applicant. They had also not indicated in the offer that it was a stop gap arrangement and that a long-term provisional appointment would be made by selection from nominees of the Employment Exchange. Hence the appointment of the applicant was provisional to be continued till regular appointment is made in terms of the offer of appointment. The Hon'ble Supreme Court in State of Haryana and others vs. Piara Singh (supra) had declared that a provisional appointee should not be replaced by another provisional appointee.

4. In the light of what is stated above, we find merit in this application and therefore reject the contentions raised by the respondents. Hence the application is allowed declaring that the applicant is entitled to continue provisionally as EDDA, Manchavilakom Post Office till either a permanent incumbent rejoins duty or a regular appointment is made and we direct the respondents to allow the applicant to continue provisionally till a regular selection and appointment is made or the original incumbent is reinstated, as the case may be.

5. No order as to costs.

Dated the 27th day of March, 1998.


S.K.GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A1: Order No.S.D.A./Manchavilakom dated 31.10.97 issued by the first respondent.

.....