

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.325/2002

Friday this the 26th day of July, 2002

CORAM

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

Saseendran Nair T.M.
S/o Madhavan Nair,
Thattumkal House,
Nellor PO, Anthinad Via.
Kottayam District Pin.686651.
working as EDDA Neloor,
Kottayam District.

..Applicant

(By Advocate Mr. MP Krishnan Nair)

v.

1. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.
2. Senior Superintendent of Post Offices,
Kottayam.
3. Sub Divisional Officer,
Post offices, Palai.
4. Geemol, ED Packer,
Melukavumattom Post Office,
Palai, Kottayam District.
5. Director General of Posts,
Ministry of Communications,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi-110 001.

...Respondents

(By Advocate Mr. MR Suresh (R.1to3)
Ms.K.Indu for R.4

The application having been heard on 26.7.2002, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant working as Extra Departmental Delivery Agent with effect from 6.8.1982 was invited by the Senior Superintendent of Post Offices, Kottayam for an interview for selection to the post of EDSPM, Neeloor by a letter dated 22.4.2002 (A5). He attended the interview on 30.4.2002 and produced all relevant documents. He is eligible in all respects to be appointed as EDSPM. His grievance is that in the select list prepared (A6) for appointment, the fourth respondent who has less than five years of service as an E.D.Agent is placed at serial number 1 while the applicant who has twenty years of service is placed at serial number 6. Finding that the fourth respondent is placed as number one in merit list and is proposed to be appointed on the basis of a clarification contained in the Memo No.17-60/95 ED & TRG dated 28.8.96 (A7) that while making selection to the post of EDBPM/EDSPM ED Agents having higher marks in the matriculation may be given preference, the applicant has filed this application challenging Annexure.A6 and also the letter Annexure.A7, for a declaration that selection made on the basis of marks in the matriculation examination alone is arbitrary and discriminatory, that Annexure.A8 letter of the Ist respondent is arbitrary and illegal, that the applicant is entitled to be selected and appointed as EDSPM, Neeloor as he is the seniormost ED Agent and for a direction to the respondents to conduct a fresh selection on the basis of seniority.

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2. We have perused the application and the annexures and have heard Shri M.P.Krishnan Nair, the learned counsel of the applicant. We have also heard Mr.M.R.Suresh, counsel for the respondents 1 to 3 and Ms.K.Indu, who appeared for the 4th respondent.

3. Shri Krishnan Nair, learned counsel of the applicant argued that the clarification contained in Annexure.A7 letter that preference is to be given to those E.D.Agents who obtained higher marks while making selection to the post of EDBPM and EDSPM discarding the seniority is arbitrary and irrational. The learned counsel of the respondents on the other hand argued that while making appointment as EDSPM and EDBPM from open market criteria for selection is the higher marks in the matriculation examination and that therefore, the clarification in Annexure.A7 is based on a sound policy. We find nothing arbitrary or irrational in the clarification. Since the essential qualification for appointment as EDSPM/EDBPM is a pass in matriculation or equivalent a stipulation that the person who has higher marks should be preferred to a person with lower marks even while making appointment by transfer does not appear to be arbitrary or irrational but consistent with the general policy. The placement of the 4th respondent at serial number 1 in Annexure.A6 list therefore, does not even prima facie appear to be wrong or irregular because the applicant has not disputed that the 4th respondent has got higher marks in matriculation. The Annexure.A8 relates to giving weightage for provisional service while making regular appointment to E.D Posts. It does not in any way relate^{to} to appointment of E.D.Agents on

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other E.D.Posts. Therefore, the applicant has no cause of action to challenge Annexure.A8.

4. In the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 26th day of July, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

(s)

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the page No.1 of the SSLC Book of the applicant.
2. A-1a: True copy of the page No.6 of the SSLC Book of the applicant.
3. A-2 : True copy of the Ration Card No.EKTM 143116 in which the name of the applicant is included with English Translation.
4. A-3 : True copy of the Receipt No.78984 dated 17.4.02 issued by the Village Officer showing payment of Land Tax with English Translation.
5. A-4 : True copy of the Income Certificate No.C9/562/198/02 issued by the Tahsildar Meenachil.
6. A-5 : True copy of the order No.B6/Neeleer dated 22.4.02 issued by the Senior Superintendent of Post Office Kottayam.
7. A-6 : True copy of the extract of the Select List prepared by the 2nd respondent.
8. A-7 : True copy of the letter No.17-60/95-ED&TRG dated 28.8.96 issued by the 5th respondent.
9. A-8 : True copy of Letter No.Vig/1-4/88 dated 1.2.94 issued by the 1st respondent.

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12.8.02