

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 326 of 1999

Wednesday, this the 20th day of June, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. Shamna E.B.
Enchakudiyil House,
PO Iramalloor,
Kothamangalam.Applicant

[By Advocate Mr. O.V. Radhakrishnan (rep.)]

Versus

1. Senior Superintendent of Post Offices,
Aluva Division, Aluva.
2. K.R. Sethu,
Extra Departmental Branch Postmaster,
Iramalloor BO, Kothamangalam.
3. Union of India, represented by
the Secretary, Ministry of Communications,
New Delhi.Respondents

[By Advocate Mr. M. Rajendrakumar, ACGSC (R1&3)(not present)]
[By Advocate Mr. P.C. Sebastian (R2)]

The application having been heard on 20-6-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Counsel for respondents 1 and 3 absent.

2. The applicant seeks the following reliefs:-

- "i) to call for the records relating to the selection and appointment of the 2nd respondent to the post of Extra Departmental Branch Postmaster, Iramalloor Branch Office and to set aside the same;
- ii) to declare that the selection and appointment of the 2nd respondent to the post of Extra Departmental Branch Postmaster, Iramalloor without regard to the higher marks secured by the applicant in the SSLC Examination and

without considering her candidature for appointment to the above post are illegal, arbitrary and in-operative;

- iii) to issue appropriate direction or order directing the 1st respondent to make selection and appointment to the post of Extra Departmental Branch Postmaster, Iramalloor Branch Office, strictly in terms of Annexure A-1;
- iv) to grant such other reliefs which this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case; and
- v) to award costs to the applicant."

3. The applicant was one of the candidates for selection for regular appointment to the post of Extra Departmental Branch Postmaster, Iramalloor Branch Office. She satisfies all the eligibility conditions. She has passed SSLC Examination and is having an annual personal income to the tune of Rs.9000/-. The selection and appointment of the 2nd respondent as Extra Departmental Branch Postmaster, Iramalloor Branch Office without considering the applicant is discriminatory and violative of Articles 14 and 16(1) of the Constitution of India. It is learnt that applicant's candidature was rejected at the threshold solely on the ground that she produced along with her application only the attested copies of requisite documents.

4. The 1st respondent contends that as per recruitment rules preference is to be given to candidates with income from landed property or immovable assets. The applicant's source of income is tuition. The selected candidate's income is from 55 cents of landed property. The applicant has therefore no legitimate claim for selection to the post. The 2nd respondent was selected as he was given preference over the applicant as per orders contained in R1-A.

5. The 2nd respondent contends that the applicant who has not satisfied other eligibility conditions cannot claim any preference on the ground that she has got higher marks in the SSLC Examination. The applicant was not called for interview for the reason that she did not satisfy other eligibility conditions.

6. From the reply statement filed by the 1st respondent, the official respondent, it is clearly seen that the applicant was not considered for the sole reason that she is not possessed of landed property or immovable assets.

7. R1-A, inter-alia, says that the Postal Services Board, after careful deliberation, has decided as follows:-

"It is not necessary to quantify "adequate means of livelihood". However, it may be laid down that in the case of appointment of ED Sub Postmasters/Branch Postmasters, preference may be given to those candidates whose "adequate means of livelihood" is derived from landed property or immovable assets if they are otherwise eligible for the appointment."

The 1st respondent has relied on this portion of R1-A.

8. This Bench of the Tribunal in OA 1514/97 considered this aspect and the portion extracted from R1-A was declared as ultra vires and unconstitutional and was consequently quashed. The ruling in OA 1514/97 was followed by this Bench of the Tribunal in a subsequent OA, i.e. OA 1457/98.

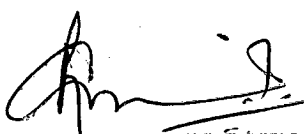
9. Official respondents have annexed as R1-B a copy of the judgement of Punjab and Haryana High Court at Chandigarh in Civil Writ Petition No. 15356 of 1997 in support of the department's stand. What has been held therein is that the property qualifications prescribed for recruitment of Extra Departmental Sub Postmaster is an essential and mandatory

qualification and that it is not correct to say that 'adequate means of livelihood' is not an essential prerequisite but only a preferential qualification. The High Court of Punjab and Haryana at Chandigarh has only considered the question whether prescribing 'adequate means of livelihood' is sustainable or not. It has not gone into the question whether the 'adequate means of livelihood' is to be confined to what is derived from landed property or immovable assets. It is that question that was considered by this Bench of the Tribunal. In this case, the candidature of the applicant was rejected not on the ground that she is not possessed of 'adequate means of livelihood', but on the ground that the applicant is not having income from landed property or immovable assets. In the light of the pronouncement of this Bench of the Tribunal, the stand taken by the department cannot be upheld.

10. Accordingly, the selection and appointment of the 2nd respondent as borne out by R2(b) is set aside. The 1st respondent is directed to consider afresh the candidature of all candidates applied including the applicant and make a proper selection in accordance with the instructions in force and in the light of the orders passed in OA Nos. 1514/97 and 1457/98. This exercise shall be done within two months from the date of receipt of a copy of this order.

11. The Original Application is disposed of as above. No costs.

Wednesday, this the 20th day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

ak.



A.M. SIVADAS
JUDICIAL MEMBER

List of Annexure referred to in this order:

1. A1 True copy of the order No. 17-366/91-ED&Trg.
Dated 12-03-1993 of the Department of Post,
Government of India.
2. R1-A True copy of the letter No. 17 104/93/ED & Trg
dated 6-12-1993 issued by Additional Director
General (Trg).
3. R1-B True copy of the judgement dated 23-3-1998 in
writ petition No. 15356/97.
4. R2(b) True copy of letter No. B3/8/II dated PBR the
19-2-99 issued by the Sub Divisional Inspector
(Postal) Perumbavoor.