

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA NO.329/2000

Wednesday the 5th day of July, 2000.

CORAM

HON'BLE MR A,V,HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.V.Thankachan
Part Time Sweeper
Eramallur P.O.
Cherthala

Applicant

By Advocate Mr P.C.Sebastian

Vs.

1. The Sub Divisional Inspector of Post Offices
Cherthala Sub Division
Cherthala.
 2. The Director General of Posts
Department of Posts, Dak Bhavan
New Delhi.
 3. The Union of India
represented by the Secretary
Ministry of Communications
Department of Posts
New Delhi.
- ...Respondents

By Advocate Mr K.Kesavankutty, ACGSC

The application having been heard on 5th July, 2000,
the Tribunal on the same day delivered the following;

O R D E R

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

Applicant who was appointed as part-time casual labourer under the first respondent after selection pursuant to an open notification issued on 6.5.97 is aggrieved that when a vacancy of Extra Departmental Delivery Agent, Chandiroor arose, his claim for appointment giving preference according to the instructions contained in the letter of the Director General of Posts dated 6.6.88 is not being considered by the respondents and respondents are taking steps for filling up the post by issuing an open notification. Applicant has, therefore, filed this application seeking to have A-1 notification dated 2.2.2000 set aside, for a declaration that he is entitled to be considered for

appointment as EDDA, Chandiroor in terms of A-4 instructions in preference to outsiders and for directing the first respondent to consider him for such appointment.

2. Respondents initially filed a reply statement stating that the claim of the applicant would be considered if he was eligible and suitable. However, they have filed another reply statement in which they contend that the applicant is not entitled to the preference because as a part time casual labourer he was not selected as a nominee of the employment exchange but only as a person who has responded to the open notification on 6.5.97.

3. We have heard the learned counsel on either side and have perused the pleadings as also the materials on record.

It is worthwhile to quote the instructions of the Director General of Posts contained in letter dated 6.6.889(A-4).

"According to the prevelant recruitment rules governing the cadre of Group D the order of preference among various segments eligible employees is as under.

- (a) Non Test Category.
- (b) ED employees
- (c) Casual Labourers
- (d) Part time casual labourers.

(2) Since the number of vacancies of Group D is limited and the number of ED employees eligible for recruitment as Group D is comparatively large, the casual labourers and part time casual labourers hardly get any chance of their being absorbed as Group D. Thus majority of casual labourers with long service are left out without any prospect of their getting absorbed in Group D cadre.

(3) Keeping the above in view, a suggestion has been put forth that casual labourers both full and part time should be given preference for recruitment as Extra Departmental Agents in case they are willing with a view to afford the casual labourers a chance for ultimate abosorption as Group D.

(4) The suggestion has been examined in details and it has been decided that casual labourers whether full time or part-time, who are willing to be appointed to ED vacancies may be given preference in the matter of

recruitment to ED posts provided they fulfil all the conditions and have put in a minimum service of one year. For this purpose a service of 240 days in a year may be reckoned as one year's service. It should be ensured that nominations are called for from Employment Exchange to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange.

(5) These instructions take effect from the date of their issue (5.6.1988).

(6) This also disposes of D.O. letter No.Rectt/27-1/85/II dated 25.9.87 and 6.10.87 received from the office of PMG.

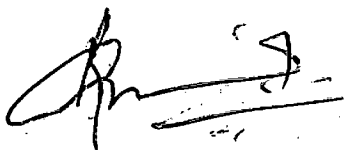
Sd/- K.Ranga Rao
Assistant Director Genl.Trng.

4. It cannot be disputed that casual labourers whether full time or part time who are willing to be appointed to ED vacancies should be given preference in the matter of recruitment to ED posts provided they fulfil all the conditions and they have put in a minimum service of one year. It cannot also be disputed that the applicant when he made a representation had completed more than 2 years of service. The only contention raised by the respondents to resist the claim of the applicant is that his appointment as part time casual labourer was not on the basis of nomination from employment exchange but on his application pursuant to the open notification. We do not find any justification for this stand. Once the applicant has been selected in a due process of selection in which those who were nominated by employment exchange and directly applied were considered, the respondents can not discriminate against the applicant saying that his name was not sponsored by the employment exchange. The applicant did not get engagement as part-time casual labour through a backdoor entry but on merits. Therefore, as the applicant was engaged as part-time casual labourer on the basis of a regular selection and has rendered service for more than one year he is entitled to get preference in appointment on E.D.Posts in terms of D.G. Posts letter dated 6.6.1988 (Annexure.A4).(para 4).

In the light of what is stated above, we are of the considered view that before resorting to selection from open market, the directions contained in the letter of Director General of Posts dated 6.6.88 have to be carried out in letter and spirit and the request of the applicant and any other casual labour claiming preference in appointment has to be considered.

In the result the application is disposed of declaring that the applicnat as a part-time casual labour having rendered service for more than one year after regular selection is entitled to be considered for appointment as EDDA, Chandiroor in preference to outsiders in terms of Annexure.A4 order and directing the respondents to consider the applicant for appointment on that post along with other part-time casual labourers if any, who have expressed willingness to be appointed. Only if the applicant or other casual labour if any are found ineligible or unsuitable recruitment from outsiders pursuant to Annexure A.1 should be made. There is no order as to costs.

Dated 5th day of July, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

aa.

List of annexures referred to in this order:

- A-1: True copy of Notice No.DA/Chandiroor dated 2.2.2000 issued by the first respondent.
- A-4: True copy of letter No.17-141/88 EDC and Trg dated 6.6.88 issued by the 2nd respondent.