

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 334/2000

FRIDAY, THIS THE 7th DAY OF JUNE, 2002.

C O R A M

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K. V. SACHIDANANDAN, JUDICIAL MEMBER

Kumari Girija J.
W/o K. Satheesh
TC 36/1776, PKK Nagar
Vallakkadavu
Trivandrum.

Applicant

By Advocate Mr. G. Sasidharan Chempazhanthiyil

Vs.

1. Senior Superintendent of Post Offices
North Postal Division
Thiruvananthapuram.
2. Chief Postmaster General
Kerala Circle
Thiruvananthapuram.
3. Director General of Postal Department
New Delhi.
4. Union of India
represented by its Secretary
Ministry of Communications
New Delhi.
5. K. Anjanakumar, Group-D
C/o the Senior Superintendent of Post Offices
North Postal Division
Trivandrum.
6. Madhavan Nair, Group-D
Office of the Senior Superintendent of Post Offices
North Postal Division
Trivandrum.
7. P. Salgunan, Group-D
O/o the Senior Superintendent of Post Offices
North Postal Division
Trivandrum.

Respondents

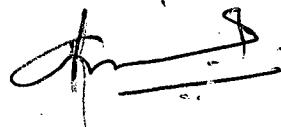
By Advocate Mr. P. Vijayakumar, ACGSC for 1-4

The Application having been heard on 2.5.2002 the Tribunal delivered the following on 7.6.2002.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

According to the averments of the applicant in the Original Application she had been working as Part-time Casual Labourer for the last more than a decade. Her mother had



been a Part-time Casual Labourer in the office of the first respondent. On her death on 12.12.92 the applicant was engaged in her place on compassionate ground and in any case even before the death of her mother the applicant had been working in long term leave vacancy of her mother from 1.2.88 onwards continuously as her mother was ailing from disease and was unable to do the work for about 5 years before her death. She submitted that she was working as a Sweeper, Scavenger, Cleaner and Gardner. She alleged that even though she worked for more than 8 hours she was paid wages for four hours only and the same was enhanced to wages for 6 hours w.e.f. 11.1.2000 by A1 letter dated 1.7.99. She submitted that three vacancies of Group-D arose in the office of the 1st respondent, which was an administrative office under the 2nd respondent, due to promotion and retirement of the incumbents on 14.12.97, 28.2.99 and 31.3.99 respectively. She averred that there were no Extra Departmental Agents in the office of the first respondent and therefore she should have been considered for regularisation in one of the vacancies in view of her long service as part-time Casual Labourer for more than 10 years. But instead of regularising the applicant respondents NO. 5 to 7 Group-D employees -working in the subordinate offices - were posted by transfer in the three vacancies. The 5th respondent was working as a Group-D in the Speed Post Centre Palayam before his transfer and posting as Group-D under the 1st respondent. The 6th respondent was working in Trivandrum Medical College Post Office and the 7th respondent was working in Vikas Bhavan before transfer. As she was not able to obtain a copy of the posting orders of the respondents 5 to 7 she could not produce the same. She submitted that posting by transfer of the three Group-D officials was made on the basis of A-5 decision dated 21.1.92 of the third respondent. She claimed



that but for A-5, Group-D vacancies under the first respondent would have been filled up by A-2, A-3 and A-4 Recruitment Rules and that in that event she would have been regularised as she was a part-time Casual Labourer with more than 10 years service. According to her, A2, A3 and A4, did not permit appointment by transfer. She claimed that the office of the first respondent was an administrative office and A2 Recruitment Rule could not be motivated by A-5. Therefore, posting of the three Group-D officials of the subordinate offices by transfer to the office of the first respondent was illegal. The applicant submitted A-6 representation in July, 1998 but first respondent did not take any action on the same. Aggrieved she filed this O.A. seeking the following reliefs:

(i) Call for the records and quash A-5

(ii) Declare that A5 is void and unenforceable and direct the respondents to make recruitment to the vacancies in the office of the 1st respondent as per Annexure A2.

(iii) Direct the 1st respondent to consider the applicant for regularisation and appointment as a Group-D in the Office of the 1st respondent in replacement of respondents 5 to 7 or any one of them.

and

(iv) to issue such other direction, order or declaration as this Hon'ble Tribunal deem fit and proper in the facts and circumstances of this case.

According to her, in subordinate offices preference was being given to ED Agents in the appointment of Group-D vacancies and there being a large number of ED Agents there was absolutely no chance of any part-time/full time Casual Labourers getting regularised in a Group-D post in subordinate offices. But the position in administrative office was different. There were no ED Agents in administrative offices as is the case in the office of the 1st respondent also. She claimed that if the Statutory Recruitment Rules at A2 were followed, Casual Labourers like



the applicant would get regularised and appointed in Group-D post and A-5 takes away the chances of regularisation of Casual Labourers in Administrative Offices.

2. Respondents filed reply statement resisting the claim of the applicant. It was submitted that the Trivandrum North Postal Division consisted of the Divisional Office (o/o the 1st respondent), Office of the Assistant Superintendent of Post Offices/Sub Divisional Inspectors, Speed Post Centre, MMS UNit, two Head Post Offices and seventy seven Sub Post Offices and all of them were under the administrative control of the first respondent and that the first respondent was the authority for filling up the Group-C and Group-D vacancies which arose in all these offices. Therefore all the vacancies which fell vacant in the offices/units in Trivandrum North Division were taken together and filled up according to the Recruitment Rules. Respondents 5 to 7 who were working in the post offices were posted in the office of the first respondent considering their request for transfer. The applicant had no right to be appointed as Group-D under the first respondent in preference to ED Agents as the first respondent's office was not a separate recruiting unit. It was submitted that the office of the first respondent was a small unit consisting of three officers, 15 Office Assistants and 3 group-D officials all working in the said office on tenure basis. The vacancies of Office Assistants and the Group-D vacancies were filled by transfer of officials in the Post Offices on request. Recruitment to Group-D vacancies were being done for the whole Division according to the extant Recruitment Rules part of which was in A2. It was averred that there had been no separate staff recruitment for Divisional office like other Administrative offices such as Chief Postmaster General's office at Trivandrum, Office of

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Postmaster General, Northern Region, Kerala Circle at Kozhikode, office of Postmaster General, Central Region, Kerala Circle at Ernakulam and office of Dy. Director Postal Accounts, Kerala Circle at Trivandrum. Hence the applicant could not be considered for appointment in the first respondent's office in preference to ED Agents when a vacancy arose there. Further, ED Agents were the priority category to be considered for appointment in a Group-D vacancy in the Postal Division. The applicant was having only 7 years of part-time service whereas there were many ED Agents having more than 18 years of ED service in the department who were awaiting absorption against the Group-D vacancies. There were many part-time Casual Labourers in the various offices in the Postal Division who were having longer service than the applicant who had a claim for appointment to Group-D posts in accordance with the Recruitment Rules. It was true that there were no EDAs in the first respondent's office. There were many such Post Offices/Units in Trivandrum North Division where there were no ED Agents. Treating such offices as separate units in order to consider the part-time Casual Labourers working therefor for appointment against Group-D vacancies would adversely affect the chances of ED Agents/Casual Labourers working in the Postal Division for being considered for Group-D appointment. Annexure A-5 was not an amendment to the Recruitment Rules. It was a clarification order issued by the Postal Directorate with regard to the certain queries raised by the Chief Postmaster General, Karnataka Circle and Chief Postmaster General, Gujarat Circle in relation to the posting/recruitment of Group-D officials in Divisional Offices under their jurisdiction. It was not an attempt to amend the Recruitment Rules in any manner but only a clarification. The respondents herein had been correctly following A2

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Recruitment Rules as amended by A-3 and A-4 applicable to Postal Divisions coming under subordinate offices even before issue of A-5. The applicant could not claim that the 1st respondent's office was an Administrative office just to suit her convenience. It was also submitted the Appendix -12 of P&T Manual Vol.IV which was in force prior to introduction of A2 Rules relating to Group-D recruitment, Divisional offices like the 1st respondent's office was not shown as an Administrative office. A true copy of Appendix-12 to P&T Manual Vol.IV was enclosed with reply statement as Annexure R1(A). Administrative offices other than Circle offices during the relevant time had been listed in para 14 therein. There was nothing in A2 which specified that the Divisional Offices were Administrative Offices and were separate recruiting units. Annexure A2, A3 and A4 were unambiguous and the same were being strictly followed to regulate the Group-D recruitment in Kerala Postal Circle.

3. Applicant filed rejoinder wherein it was submitted that the first respondent was inconsistent with the contention of his counter part in the Railway Mail Service 'TV' Division made in the reply statement in OA NO. 747/98. Annexure R-1(A) was replaced by entirely new Recruitment Rule in the Fifth Edition of Vol.IV issued in 1980 and the rules were relating to Postmen, Village Postmen and Mail Guards. The first respondent had exceeded his jurisdiction in allowing appointment in Group-D vacancies of his office by transfer to the detriment of the applicant even granting (but not admitting) that Postal Divisional office was a subordinate office. According to him the ~~xxx~~ criterion for determining the recruiting unit was the power of appointment vested in various authorities. The 1st respondent had no authority to group different recruiting units together as one

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unit to do justice to a senior official with longer length of service in one recruiting unit in comparison with another with lesser length of service in another unit.

4. Even though notices were issued to respondents 5 to 7 none appeared on their behalf.

5. Heard learned counsel for the parties.

6. The learned counsel for the applicant took us through the pleadings and submitted that A-5 was void and illegal in that the same attempted to amend the Statutory Recruitment rules which could not be amended by executive orders. A-5 was discriminatory and violative of Articles 14 and 16 of the constitution of India as it discriminated against casual labourers. It was also submitted that posting by transfer of respondents 5 to 7 was illegal, discriminatory and violative of Articles 14 and 16 of the Constitution of India since such postings deprived the applicant of her right of consideration for regularisation and posting as Group-D in the office of the 1st respondent. He also referred to A-7 being copies of pages 289, 305, 306 and 353 of the P&T Manual Vol. III and submitted that the power of appointment were available with different authorities and when such is the case the first respondent could not club the different offices into one recruitment unit. He submitted that the OA deserved to be allowed granting the reliefs sought for by the applicant.

7. The learned counsel for the respondents took us through the reply statement and submitted that the applicant's contentions were devoid of merit. No document had been produced by the applicant to show that the first respondents office was an administrative office. All the

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offices under the first respondent formed one Recruitment Unit and the applicant could not try to steal a march over the senior Casual Labourers and E.D. Agents who were working in the other offices and waiting for posting as Group-D all of which formed one recruitment unit.

8. We have given careful consideration to the submissions made by the parties, rival pleadings and have perused the documents brought on record.

9. The main thrust of the argument of the applicant for the reliefs sought for is that the office of the first respondent is an administrative office and that being an administrative office only the casual mazdoors working in that office should be considered for appointment against Group-D vacancies occurring in that office against direct recruitment quota and that by treating the office of the first respondent as a subordinate office the applicant's chance of getting absorbed got reduced. It is also her contention that for the purpose of recruitment clubbing the first respondent's office with other offices was not in accordance with the rules. The respondents' plea is that the office of the first respondent did not come under 'administrative office' referred to in the A2, A3 and A4 Recruitment Rules. According to the applicant, but for issue of A5, Group-D vacancies in the office of the first respondent - being an administrative office - would have been filled up in accordance with A2, A3 and A4 Recruitment Rules. According to the respondents the impugned order A5 was a clarificatory letter issued by the Directorate with reference to certain correspondence exchanged with the Directorate by the office of the CPMG, Karnataka Circle and Gujarat Circle. According to them even before the issue of A-5 letter the

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offices of the Superintendents of Post Offices were being treated as part of the concerned Postal Division and no recruitment was being made for that office in Kerala Circle treating it as a separate recruiting unit. Hence, the office of the first respondent fell in the category of 'subordinate offices'. In support, the respondents produced R1(A) extract of P&T Manual Vol. IV 4th Edition containing the rules to the recruitment of Class-IV posts in all branches of Indian Postal and Telegraph Department which existed prior to issue of A2 Recruitment Rules. Respondents relied on para 14 of Section II of Appendix 12 to show that the office of the first respondent did not fall under the definition of 'administrative offices'.

10. Therefore, the issues before us is (i) whether the office of the first respondent is an 'administrative office' and (ii) even if the said office was not an 'administrative office' can that office be clubbed with other offices of the division for the purpose of recruitment. After carefully going through the contents of Section I and Section II of Appendix 12 contained in Annexure R-1(A) we are of the considered view that the office of the Superintendent of Post Offices is a subordinate office only and cannot be treated as an administrative office. The office of the Superintendent of Post Offices is not listed in Section II under the list of Administrative Offices given in para 14.

11. We have perused the reply statement filed by the Superintendent, Railway Mail Service 'TV' Division in OA 747/98 extracted by the applicant in the rejoinder. Nothing is mentioned in the said statement to show that the office of the first respondent is an administrative office. In fact what we find is that in Appendix 12 in Section I, a reference

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to RMS is made in para 7. It is stated " In the RMS, the Superintendent concerned should address the Employment Exchanges in all the State or Circles concerned if his division extends over more than one State or Circle." The above statement would clearly indicate that the recruitment of Group-D in RMS division falls under the 'subordinate unit'. When recruitment to RMS division is shown under Section-I dealing with subordinate units, we hold that recruitment to other postal divisions should also fall under 'subordinate units' only especially when Divisional Office is not included in the list in para 14 of Section-II, titled Circle and Administrative Offices.

12. We also find force in the plea that if the post offices/units in the division where there were no ED Agents were treated as separate recruitment units to consider the part-time casual labourers working there, the same would adversely affect the chances of ED Agents/Casual Labourers working in the Postal Division as a whole being considered for Group-D appointment. In the office of the first respondent the total strength of staff and officers had been given as follows:

| | |
|-------------------|----|
| Officers | -3 |
| Office Assistants | 15 |
| Group-D | 3 |

It is also averred that the vacancies of Office Assistants and Group-D were being filled up by transfer of officials from Post Offices on their request. While the transfer of Group-D is assailed in this OA, the averment made in the reply statement regarding Office Assistants has not been specifically denied.



..11..

That apart, we are of ^{if} the considered view that the offices having such small strength of staff as in this case are treated as separate units for recruitment as contended by the applicant even though it may give some advantage to certain interested parties in the short term, in the long term this would lead to stagnation due to lack of further avenues of advancement. We also do not find anything in A-2, A-3 and A-4 to indicate that the office of the first respondent would fall under "Administrative Offices."

13. In the light of the above we do not find any substance in the various contentions advanced by the applicant to establish that the office of the first respondent was an 'Administrative Office.' Hence we reject the same.

14. The next issue is whether the respondents are justified in clubbing the office of the first respondent with the other offices of the division for the purpose of recruitment. We are of the view that it is for the authorities concerned to decide as to how recruitments to different offices/units should be done i.e. individually for different units/offices or in a combined manner. Respondents have averred that no separate recruitment had been done to the office of the first respondent and the posts therein were filled on transfer basis and these had not been denied, as already stated. We are also aware that for recruitment of ED Agents, " Sub-Division" is the recruiting unit and for ED Branch Postmaster and ED Sub Postmaster 'Division' is the recruiting unit. When such is the case, if the respondents have decided to club all the offices in the Division for Group-D recruitment we hold that the same cannot be faulted.

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No statutory rule had also been brought out against the same. We are of the view that A-7 relied on by the applicant, to assail the clubbing of different offices has no relevance in the matter. A-7 indicates the Appointing authorities, Disciplinary authorities and Appellate Authorities. Nothing is stated therein that every Appointing authority should do separate recruitment. Recruiting authority need not be the appointing authority. In view of the above analysis we cannot fault the action of the respondents in clubbing the offices under the first respondent as one recruiting unit. As the recruiting unit is one, the transfer of Group-D staff from one office to the office of the first respondent could not be faulted.

15. The impugned order A5 reads as under;

A copy of Director General, Department of Posts, New Delhi letter No. 141-410/90 SPB-II dated 21.1.1992

Sub: Rotational transfer of Mailman and Selection Grade Mailman in the Office of Supdt. RMS/POS and HPOs

Ref CPMO Karnataka Circle Office DO letter NO. STA/22-1/Rlgs/KW dated 4.4.91

CPMG Gujarat Circle Office DO letter NO. STAFF/1-66/Corr/VII dated 25.6.1991

Sir,

I am directed to refer to the above letters on the subject mentioned above and to state that hereafter no separate recruitment of Group-D staff be made for the Divisional Offices and the vacancies may be filled by posting of Group-D officials from the POS, Mail Offices. If the existing officials are those recruited exclusively for the divisional Office by the divisional Supdt. they may not be rotated.

Yours faithfully,

Sd/- R. Krishnamoorthy
Asst. Director (SPN)



This was a letter addressed to the Karnataka and Gujarat Circles. The context in which the said letter had been issued had been explained by the respondents with a categorical averment that in Kerala Circle, offices of the Superintendents of Post Officer were treated as a part of subordinate units and the contingency faced by the Karnataka and Gujarat Circles did not arise in the Kerala Circle. Further there is no indication in A-5 that it is in supersession or in clarification to the Recruitment Rules. Under these circumstances, it could be treated only as a reply to the letters dated 4.4.91 and 25.6.91 issued by the CPMG Karnataka and Gujarat Circles respectively.

16. In the conspectus of facts and circumstances and in the light of the detailed analysis given in the foregoing paragraphs, we are of the considered view that the applicant had not made out a case for the reliefs sought for by her. Accordingly, we hold that the applicant is not entitled for the reliefs sought for.

17. Accordingly we dismiss this Original Application with no order as to costs.

Dated the 7th day of June, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

kmn



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

Appendix

Applicant's Annexures

- A1 True copy of the letter No. BIC/Cont. Dlg-TVM dated 1.7.99 sent by 1st respondent to the Sr. Postmaster, Trivandrum GPO-695 001.
- A2 True copy of the Indian P&T (Class-IV) Recruitment Rule, 1970- Vide No. 160-11/59-SPB-I dated 20.10.70 (relevant portion)
- A3 True copy of the Indian P&T Groupo-D Posts Recruitment (Amendment) Rules, 1982 vide Notification dated 16.11.82
- A4 True copy of the Indian P&T Group-D Posts Recruitment (Amendment) Rules 1982 -vide Notification dated 24.2.1989.
- A5 True copy of letter No. 1412-410/90 SPB-II dated 21.1.1992 sent by Assistant Director (SPN) Department of Posts, New Delhi.
- A6 True copy of the representation submitted by the applicant before the 1st respondent.
- A(6a) True copy of the representation submitted by the applicant before the 1st respondent.

Respondents' Annexures

- RI True copy of the correction slip to P&T Manual Vol. IV (4th Edition) dated 26.7.66.