

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 336 of 1999.

Friday this the 19th day of March 1999.

CORAM:

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

Devaki P.S.  
Branch Post Mistress,  
Kuntikava Post Office, Via Perdala,  
Kasaragode District, Kerala.

.. Applicant

(By Advocate Shri Sureshkumar Kodoth)

Vs.

1. Union of India, represented by  
The Director General of Postal Services,  
New Delhi.
2. The Divisional Postal Superintendent,  
Northern Region, Kozhikode,  
Kozhikode District.
3. The Superintendent of Post Office,  
Kasaragode Division, Kasaragode,  
Kasaragode District.

.. Respondents

(The application having been heard on 19th March, 1999, the Tribunal on the same day delivered the following:)

O R D E R

The applicant was selected and appointed to work as Extra Departmental Branch Post Mistress (EDBPM for short) at Kuntikava Post Office on a provisional basis as the regular incumbent was put off duty and was facing departmental disciplinary proceedings. Though the provisional appointment was initially for 89 days her services were extended by various orders. While so, a notice dated 6.4.98(A7) was served on the applicant proposing to terminate her services on the ground that on a review by the second respondent the appointment of the applicant was found to be erroneous

and in contravention of the extant administrative instructions. Though the applicant submitted an explanation apprehending that her services would be terminated, she approached this Tribunal by filing O.A.953/98. Pursuant to an interim order in that case the applicant continued in service and ultimately the O.A. was disposed of directing the respondents to allow the applicant to continue on the basis of the provisional appointment. It was also observed that:

"Since the original incumbent of that post had since been dismissed from service on 30.10.96 a regular appointment to the post might be made in accordance with the extant instructions which <sup>also</sup> laid down that if a selection has been made during the put off duty of the ED Agent facing departmental proceedings, it is not always necessary to redo the selection after the original incumbent is dismissed or removed from service."

2. The applicant is continuing as EDBPM on a provisional basis. Now, again the applicant has been served with the impugned notice A-10 wherein it was stated that as the original incumbent in this post has been dismissed from service, the vacancy having become regular, a regular selection is required to be made since there had been an irregularity in the selection and appointment of the applicant as she not being the person highest in merit was erroneously appointed on a wrong assumption that the post was reserved for a candidate belonging to Scheduled Tribe while in fact it was not so. The applicant has been given 15 days time to give her explanation if any against the proposal. Pursuant to the above show cause notice the applicant has given an explanation A-11 on 16.3.99. Immediately, thereafter the applicant has filed this application for having the A-10 set aside, <sup>and</sup> for a declaration that she is entitled to continue as EDBPM on the basis of an appointment order issued by the 3rd respondent, and that she is entitled to be regularised with effect from 21.7.96.

3. When the original application came up for hearing, the learned counsel on either side agreed that since the applicant has submitted a representation in reply to A-10 notice, the application may be disposed of directing the 3rd respondent to consider the matter and give the applicant a speaking order within a reasonable time and that if a regular selection is required to be made depending on the decision in the matter the process of selection shall be initiated only after the service of the order on applicant and that till a regular appointment is made the applicant shall be allowed to continue in the post on provisional basis.

4. In the light of the above submission made by the learned counsel on either side, the application is disposed of directing the 3rd respondent to give a speaking order considering the A-11 representation submitted by the applicant in reply to the show cause notice A-10 within a period of one month and that depending on the decision to be taken by third respondent if a regular selection is required to be made the process of selection shall be initiated only after the service of the decision on A-10 on the applicant and that till a regular appointment is made the applicant shall be allowed to continue on the post on provisional basis. No costs.

Dated the 19th March 1999.



A.V. HARIDASAN  
VICE CHAIRMAN

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List of Annexures in the order:

1. Annexure A-7 : True copy of notice No.B3/357/11 dated 6.4.1998 issued by the 3rd respondent.
2. Annexure A-10: True copy of order No.B3/357/11 dated 4.3.1999 issued by 3rd respondent.
3. Annexure A-11: True copy of reply dated 16.3.1999 submitted by applicant before 3rd respondent.