

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~XXXXXX~~

342 of 1992

DATE OF DECISION 07-08-1992

K.V.Gopi _____ Applicant (s)

M/s
A.C. Jose & CA Majeed _____ Advocate for the Applicant (s)

Versus

The Post Master General,
Central Region, Ernakulam _____ Respondent (s)
and others

Mr.K.A.Cherian, ACGSC
(R.1, 2&4) _____ Advocate for the Respondent (s)

CORAM: Mr.D.Sreekumar, Govt.Pleader (for R.3).

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgement? N
4. To be circulated to all Benches of the Tribunal? N

JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application dated 21.2.1992 under Section 19 of the Administrative Tribunals Act the applicant who according to him has been working as a substitute Extra Departmental Delivery Agent (EDDA) and Postman in the South Chittoor Post Office has prayed that the respondents be directed to consider him for the post of EDDA/MC, South Chittoor P.O. or Kadakkudy Post Office and to declare that the applicant is entitled to special preference for selection as he has 400 days of service as a substitute EDDA/Postman in the aforesaid Post Office. He has also claimed the benefits under Chapter V-A of the Industrial Disputes Act. According to the applicant he is a member of the Scheduled Caste

community, he has passed SSLC and he lives within 50 yards from the limits of South Chittoor Post Office. According to him during the period from 1985 to 1989 onwards he had put in 400 days of service as a substitute EDDA/Postman in the South Chittoor Post Office but in 1989 when a vacancy of EDA arose in that post office the second respondent without considering his superior claims appointed another person who was not even a resident of the local area of that Post Office. Again the third respondent (Divisional Employment Officer) issued a press release inviting those who had registered themselves with the Employment Exchange prior to 13.6.76/ 12-6-80 to appear before him on 15.2.92 in connection with some vacancies of EDAs in the Postal Department including the two vacancies of EDMC in the Chittoor Post Office (Annexure-A.3). He has challenged this notice at Annexure.A.3 dated 11.2.92 as illegal and against the Departmental rules because it excludes him/
at the threshold
who had registered himself on 2.6.83.

2. The Postal Department who have been impleaded as Respondents 1, 2 & 4 have categorically denied that the applicant had ever been given any provisional appointment as EDDA or as a Postman at South Chittoor Post Office. They have stated that he might have worked in the leave vacancy of regular incumbent on short spells as a substitute. The applicant has not produced any record to show that he had worked for 400 days. They have also stated that the three posts are not reserved for Scheduled Caste/Scheduled Tribe and that appointments are to be made from amongst candidates sponsored by the Employment Exchange. They have also stated that benefits under Chapter V-A of the Industrial Disputes Act are not available to the applicant as he had not worked for more than 240 days in a year.

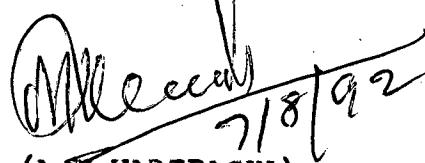
3. So far as respondent No.3 is concerned, he has stated that since there are large number of eligible candidates in the live register of the Employment Exchange a cut off date of 13.6.76 was fixed for limiting the number of candidates to be sponsored to the Postal Department. The seniority of registration is the basis for sponsoring candidates. After conducting a preliminary selection as per rules nine candidates were sponsored to the Postal authorities. The seniority of the last candidate sponsored was 25.2.76 and since the applicant's seniority of registration starts from 2.6.83 his name could not be sponsored. Since the cut off date has to be fixed to limit the number of candidates, there is nothing illegal about the cut off date.

4. The Postal authorities have indicated that in accordance with the interim orders passed by the Tribunal, the applicant was ^{also} considered for selection to the post of EDMC, Chittoor but he could not be selected as the marks obtained by him in the SSLC was less than the marks obtained by the selected candidate. They have also filed a statement on 22.7.92 stating that at present 16 per cent ^{strength} of Scheduled Castes are working as EDDAs in the recruitment unit of the applicant as against the quota of 10 per cent for Scheduled Castes and one per cent for Scheduled Tribes.

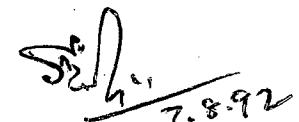
5. We have heard the arguments of the learned counsel for all the parties and gone through the documents carefully. Since the quota of Scheduled Castes has already been over-filled, in accordance with the

D.G. P&T's instructions vide letter No.43-84/80-Pen dated 13-3-1984 as on page 63 of Swamy's Compilation of Service Rules for ExtraDepartmental Staff in Postal Department (Fourth Edition), there can be no further preferential treatment or reservation of posts for Scheduled Caste candidates. The applicant was duly considered for selection in accordance with our interim order but he was not selected as another candidate sponsored by the Employment Exchange who obtained more marks in SSLC than the applicant had been selected. Since all the sponsored candidates had been registered by 1976 whereas the applicant was registered in 1983, the applicant can have no grievance, as all the sponsored candidates are senior to him on the basis of date of registration and the selected candidate who is one of them got more marks in the SSLC than the applicant. The applicant has not produced any proof about his previous service of 400 days so as to claim the benefit of Chapter V-A of the Industrial Disputes Act.

6. In the facts and circumstances, we see no merit in the application and dismiss the same without any order as to costs.


7/8/92

(A.V. HARIDASAN)
JUDICIAL MEMBER


7.8.92

(S.P. MUKERJI)
VICE CHAIRMAN

07-08-1992

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