

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 350/2001

Wednesday, this the 1st day of January, 2003.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

T. Manoj Kumar,
Extra Departmental Delivery Agent,
Mambaram P.O., Thalassery Taluk,
Kannur District. ... Applicant

(Mr. A. Mohammed Mustaque)

Vs

1. The Superintendent of Post Offices,
Thalassery Division,
Thalassery P.O.
2. The Post Master General,
Northern Region,
Kozhikode.
3. The Director General of Post,
Department of Post,
Dak Bhavan, New Delhi.
4. J.P. Jayasree,
ED Sub Post Master,
Eruvatty, Thalassery.
5. Union of India, rep. by
Secretary,
Department of Post and Telecommunications,
New Delhi. ... Respondents

[Mr. R. Prasanthkumar, ACGSC(R 1-3&5)
Mr. T.C. Govindaswamy(R-4)]

The application having been heard on 1.1.2003, the Tribunal on the same day delivered the following :

ORDER

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

The applicant as also the 4th respondent were considered for transfer and appointment as Extra Departmental Sub Post Master(EDSPM for short), Eruvatty by transfer. The applicant was considered pursuant to the order of this Tribunal in OA No.958/99 and the 4th respondent was considered pursuant to the order of this Tribunal in OA No.1045/2000. After considering the claims

of the applicant, the 4th respondent and others for transfer, the impugned order Annexure A1 was issued whereby the claim of the applicant for transfer was turned down on the ground that the 4th respondent had obtained higher percentage of marks(78%) in the SSLC Examination than the applicant(45.16%) although it is stated that the applicant did not produce the documents showing income and possession of property. Aggrieved by this, the applicant has filed this application for a declaration that the applicant is entitled to be appointed to the post EDSPM, Eruvatty by transfer and for a declaration that appointment of 4th respondent to the said post is illegal and Annexure A1 is liable to be set aside to the above extent. It is alleged in the application that the order rejecting the claim of the applicant on the ground that the 4th respondent having higher marks in the SSLC Examination is not sustainable.

2. Respondents No.1-3&5 and No.4 have filed reply statements. The contentions taken by the respondents are similar. It has been contended by the respondents that since the 4th respondent got higher marks in the SSLC Examination than the applicant, in terms of the clarifications contained in the letter of Ministry of Communications(Department of Post) dated 28.8.1996(R-1) that while considering the transfer of ED agents for selection to the post of EDBPM/SPM, preference should be given to persons who have higher marks in the Matriculation Examination, the selection and appointment of the 4th respondent is just and proper.

3. None appeared for the applicant. Neither the applicant nor his counsel had appeared on 20.12.2002 when the matter came up for hearing also. This being an old case, we do not find any justification for a further adjournment. Therefore we have gone through the pleadings and other material placed on record and have heard the counsel of the respondents.

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4. On a perusal of the material placed on record and on hearing the counsel for the respondents, we find that the selection made was perfectly in tune with the instructions and clarifications issued on the subject. The 4th respondent having obtained higher marks in the SSLC Examination than the applicant, the selection of the 4th respondent by transfer to the post of ED SPM, Eruvatty is found to be perfectly in order, no interference is called for.

5. In the light of what is stated above, we find no merit in the application and the same is dismissed. No costs.

Dated the 1st January, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the order No.958/99 Dlgs dated 20.10.2000 issued by the Supdt. of Post Office, Thalassery Sub Division.
2. A-2: True copy of the appointment order Memo No.DA/Bo/R dated 6.11.97 issued by the 1st respondent.
3. A-3: True copy of letter No.43-27/85 pen (EDCE Trg) dated 12.9.88 issued by the 3rd respondent.
4. A-4: True copy of letter No.19-15/96 ED & Trg dated 11.2.97 issued by 3rd respondent.
5. A-5: True copy of the news item dated 21.5.99 published in Mathrubhumi daily.
6. A-5a: True copy of English translation of Annex.A5.
7. A-6: True copy of the representation dated 25.5.99 submitted by applicant to the 1st respondent.
8. A-7: True copy of the judgement dated 9.6.99 of this Hon'ble Tribunal in O.A.628/99.
9. A-8: True copy of the order No.OA 628/99 Dlgs issued by 1st respondent dated 30.8.99.
10. A-9: True copy of judgement dated 9.3.2000 of this Hon'ble Tribunal in OA No.958/99.
11. A-10: True copy of the judgement dated 16.10.2000 of this Hon'ble Tribunal in OA No.1045/2000.
12. A-11: True copy of notice dated 3.10.2000 issued by 1st respondent.
13. A-12: True copy of acknowledgment issued by 1st respondent.

Respondents' Annexures:

1. R-1: True copy of the letter No.17-60/95/ED & Trg dated 28.8.1996 issued by the 3rd respondent.
2. R-2: True copy of the SSLC Mark list of the applicant.
3. R-3: True copy of the SSLC Mark list of the 4th respondent.
4. R-4a: True copy of the order No.OA/1367/99/Dlgs dated 8.11.2000, issued by the 1st respondent.
5. R-4b: True copy of the Order No.17-60/95-ED & TRG dated 28.8.96 issued from the office of the 3rd respondent.
