

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXXX

351 of 1992

DATE OF DECISION 13-07-1992

C. Rajan

Applicant (s)

Mr. M.R. Rajendran Nair

Advocate for the Applicant (s)

Versus

Sub Divisional Inspector Respondent (s)
of Post Offices, Adur and another

Mr. V. V. Sidharthan, ACGSC
through proxy counsel

Advocate for the Respondent (s)

CORAM :

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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

The applicant C. Rajan ~~xx~~ regularly working as EDMC (Extra Departmental Mail Carrier) in Mannadi P.O. since 18.8.1981 was provisionally appointed as EDDA (Extra Departmental Delivery Agent) by order dated 10.9.91 in the same post office when the post of EDDA fell vacant. In order to join that post, he took leave from ~~xx~~ as EDMC arranging a substitute and the post of EDMC is being managed through the substitute. The applicant made a representation for transfer from the post of EDMC to that of EDDA in the same post office. In reply to this representation the applicant received a communication dated 2.12.1991 at Annexure-III of the Sub Divisional Inspector asking him whether he was ready to work both as EDMC

and EDDA, Mannadi Post Office ~~and the post office should be~~
~~be in a position to work with the post office~~ In reply to this communication he sent Annexure-IV reply stating that since the delivery area of Mannadi P.O. is extensive it would be impossible for a person to work both as EDDA and EDMC. While matters ^{stood at} ~~at~~ that stage the department initiated steps for filling up the post of EDDA, Mannadi P.O. by notifying the post in the Employment Exchange. At this juncture the applicant has filed this application under Section 19 of the Administrative Tribunals Act praying that it may be declared that the applicant is entitled to be appointed as EDDA, Mannadi P.O. or in the alternative the respondents may be directed to consider the applicant also with due weightage for regular selection and appointment to the post of EDDA, Mannadi P.O.

2. As the applicant prayed for a stay of the further proceedings for recruitment to the post of EDDA, Mannadi P.O. after admitting the case by order dated 3.3.92 the recruitment proceedings were stayed.

3. The respondents in their reply statement have stated that in accordance with the instructions regarding transfer of working ED Agents to a post in the same office, there is no objection in the applicant being appointed as EDDA but they contend that as there is a direction by the PMG ~~xx~~ not to fill the post of EDMC which falls vacant as far as possible ~~xxx~~ the applicant can be appointed to the post of EDDA in case he is willing to perform the duties of EDMC also.

4. We have heard the learned counsel on either side and have also carefully gone through the pleadings in detail. Regarding the right of the applicant for

being considered for transfer to the post of EDDA and his suitability for that post, there is no dispute. The respondents resorted to recruitment proceedings for selecting an outsider only because the applicant expressed his unwillingness to work in both these posts at the same time. From the averments in the reply statement it is borne out that the ED Agents of Mannadi P.O. are burdened with heavy work-load so that it would be difficult for one E.D.Agent to perform the duties of another post also additionally. While the applicant was provisionally appointed as EDDA the department did not insist that he should perform the duties of EDMC also. On the other hand for taking up the provisional appointment of EDDA the applicant was granted leave on his arranging a substitute. So it is evident that it is burdensome for a personnel working as EDDA to perform the duties of EDMC also. Since the respondents are agreeable to appoint the applicant as EDDA as the latter is qualified and suitable to hold that post, we are of the view that the application can be disposed of with a direction to the respondents to appoint the applicant as EDDA and with a direction to the applicant to shoulder the responsibilities of EDMC also on his being paid an additional allowance xx admissible as per rules. If the department finds this arrangement not feasible it would be open for the department to take appropriate decision regarding the duties of the post of EDMC.

5. In the result, the application is disposed of with the following directions.

6. As the respondents themselves have agreed that

the applicant is suitable for appointment as EDDA the respondents are directed to issue orders appointing the applicant regularly as EDDA, Mannadi P.O. It is open for the respondents to direct the applicant to perform the duties of the post of EDMC in addition to that of EDDA on paying additional allowance for such duties as is admissible as per rules and the applicant is directed to perform such duties on such orders. In case the department finds that it is not feasible for the incumbent to discharge the functions of both these posts, it is open for the respondents to pass appropriate orders regarding the post of EDMC. There is no order as to costs.


(A.V. HARIDASAN) 13/7/92 13.7.92
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

13.07.1992

ks#4792.