

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 22.12.1989

P R E S E N T

HON'BLE MR.S.P.MUKERJI - VICE CHAIRMAN

AND

HON'BLE MR.A.V.HARIDASAN - JUDICIAL MEMBER

ORIGINAL APPLICATION NO.360/86

Ajitha A Puthukulam - Applicant

Versus

1. Senior Superintendent
of Post Offices,
Ernakulam.
2. Employment Officer,
Ernakulam.
3. Director General of Posts,
New Delhi.
4. Union of India rep. by
its Secretary,
Ministry of Telecommunications,
New Delhi - Respondents.

Mr.OV Radhakrishnan - Counsel for applicant

Mr.P.Santhalingam,ACGSC - Counsel for Respondents 1,3&4.

Mr.MR Rajendran Nair - Counsel for Respondent.2.

O R D E R

(Mr.A.V.Haridasan, Judicial Member)


The applicant is a provisional Extra Departmental Branch Post Master. She was appointed as Extra Departmental Branch Post Master, Edakkattuvayal on a provisional basis on 12.3.1985, and she continued as

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such with occasional breaks. When the Department was taking steps for filling up of the post of EDBPM, Edakkattuvayal on a regular basis, the applicant put-in a representation on 11.4.1986 offering herself as a candidate since she had all the requisite qualifications for the post. The recruitment of Extra Departmental Agent is governed by DGP&T's letter No.45-22/71-SPB.I-PEN dated 4.9.1982 which requires that the recruiting authority should send a requisition to the local Employment Exchange for nominating suitable candidates for the post. Believing that the applicant would not be called for the interview for the selection to the post of EDBPM, Edakkattuvayal which was proposed to be held on 18.4.1986 on the ground that her name had not been sponsored by the Employment Exchange, the applicant has filed this application under Section 19 of the Administrative Tribunals Act praying that the first respondent may be directed to call the applicant for the interview/test for selection to the post of EDBPM, Edakkattuvayal and to consider her for appointment. In the application it has been averred that to deny her an opportunity to participate in the interview/test for selection to the post is violative of fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India and that to fill the vacancy in which

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she has been working for more than one year without considering her for regular appointment is against the provisions of the Industrial Disputes Act. The application is opposed by the respondents, filing a counter affidavit. It has been averred in the counter affidavit that as per sub para 11 of Rule 7 of Section 2 of the ED Agents (Conduct and Service) Rules 1964, the employment of ED Agents should be made through Employment Exchanges that on the requisition of the first respondent the District Employment Officer, Ernakulam has sponsored seven candidates who have been interviewed and that as the applicant has not been sponsored by the Employment Exchange, she is not entitled to be interviewed on the basis of her provisional appointment which does not confer on her any right to the post.

2. We have heard the arguments of the learned counsel on either side and have carefully perused the documents. The short question that arise in this case is whether the applicant who has not been nominated by the Employment Exchange is entitled to be considered for regular employment on the basis of her provisional employment as an EDBPM and whether she is entitled to any preferential treatment. According to the instructions in the Post Master General, Kerala circle letter

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No.STA/102/6-VI/78 dated 7th November, 1978 (page 68 of Swamy's compilation ibid), the working ED Agents if they are otherwise satisfy the eligibility conditions have to be given priority over all other categories except retrenched ED Agents. The following extract from the above quoted circular would make the position clear:

"2. It has been decided by the Postmaster General that working ED Agents should be given priority over all other categories except retrenched ED Agents for selection of various ED posts if they satisfy all the conditions prescribed in the office letter No.STA/1/28-Rlgs., dated 24.10.76, as amended from time to time and if the appointment in the new post is in public interest. The concession is, however, applicable to the following categories of ED Agents only:-

- i) ED Agents appointed prior to the introduction of the residence condition.
- ii) ED Agents who had acquired residence in new locality by purchase or inheritance.
- iii) All women ED Agents who have to shift the residence after marriage".

The identical question has come up for consideration before this Tribunal in several cases. Some of them are TA K-62/87, TA K-763/87 and TA 204/87. In all these cases it was held that persons already working in the Post Office as ED Agents are entitled to preferential treatment under Section 25 H of the Industrial Disputes

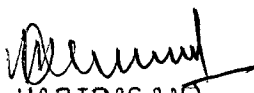
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Act. If the eligibility conditions are satisfied and that even if they are not sponsored by the Employment Exchanges, they should also be considered along with candidates sponsored by the Employment Exchanges and they should be given preferential treatment under Section 25 H of the Industrial Disputes Act. Though the interview/test was held on 18.4.1986 excluding the applicant, pursuant to the interim order dated 1.5.1986, the results of the same have not been announced and the applicant is continuing in the post on a provisional basis.

3. In these circumstances following the judgments in the above referred cases, we dispose of this application directing the respondents to get the applicant also interviewed by the same persons who interviewed the other candidates on 18.4.1986 (so far as practicable) and to consider her also for regular appointment for the post of EDBPM. We further direct that everything else being equal, the applicant should be given preference since she has been working as EDBPM ever since 13.3.1985. as enjoined in the Section 25 H of the Industrial Disputes Act.

4. We do not make any order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER

 22/12/89
(S.P. MUKERJI)
VICE CHAIRMAN

22.12.1989