

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.365/99

Wednesday this the 19th day of September, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Mathew Cyriac
S/o N.K.Kuriakose
Extra Departmental Mail Carrier
Kothanalloor (Nediyakalayil)
Kanakari P.O.
Kottayam - 686 632.

Applicant.

[By advocate Mr.M.R.Rajendran Nair]

Versus

1. The Senior Superintendent of Post Office
Kottayam Division, Kottayam.
 2. The Post Master General
Central Region, Kochi.
 3. Ms.Bindu
Extra Departmental Branch Postmaster
Kothanalloor P.O.
 4. Union of India represented by
Secretary, Ministry of Communications
New Delhi.
- Respondents


[By advocate Mr.A.Sathianathan, ACGSC (R1&2 and 4)]
[Mr.D.Anilkumar for R3]

The application having been heard on 19th September, 2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-1 & A-2, to declare that the non-consideration of his claim for appointment by transfer as Extra Departmental Branch Post Master, Kothanalloor is illegal, to direct respondents 1 & 2 to consider him for appointment as EDBPM, Kothanalloor by transfer and to quash the selection and appointment of 3rd respondent as EDBPM, Kothanalloor.

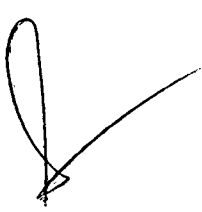


2. Applicant was appointed as Extra Departmental Mail Carrier, Kothanalloor with effect from 1.12.90. A vacancy of EDBPM arose in the same office. He submitted a representation on 2.9.98 and another representation on 7.9.98 for appointment as EDBPM by transfer. His request was turned down. Thereafter an interview was held on 6.11.98 in which he was considered along with other candidates for appointment to the post of EDBPM. He submitted another representation requesting to appoint him by transfer as EDBPM. That was also turned down as per A-1. In the meanwhile 3rd respondent was selected and appointed as EDBPM.

3. Official respondents resist the OA contending that the applicant's request for appointment by transfer could not be acceded to as per the existing instructions. ED Agents are not eligible for transfer from one post to another except in cases where ED Agents are held surplus consequent to abolition of ED posts. A-1 & A-2 orders are not illegal. Appointment of 3rd respondent is in order.

4. Third respondent contends that he was appointed as EDBPM with effect from 21.11.98. It was after an interview. Applicant also participated in the process of selection held on 6.11.98. There is no illegality in A-1 & A-2 orders.

5. There is no dispute as to the fact that the applicant applied for appointment by transfer to the post of EDBPM, Pothanalloor and his request was turned down. It is also no under dispute that subsequently a selection was conducted for the post of EDBPM and the applicant took part in that selection and lost. It was the 3rd respondent who was selected.



6. Identical question was considered by this bench of the Tribunal in OA No.50/99. There it has been held that :

"The position here is that the applicant having without any murmur appeared for the interview in pursuance of the call letter issued to him as an outsider and having lost in the interview, now as per this OA turns round and says that as a working EDDA he is entitled to a preferential claim. We are unable to appreciate the stand of the applicant on this aspect."

7. In Suneeta Aggarwal Vs. State of Haryana & Ors. with [S.L.P.(C) No.9541/98] JT 2000 (2) SC 168, it has been held that "The appellant having appeared before the Selection Committee without any protest and having taken a chance, we are of the view that the appellant is estopped by her conduct from challenging the earlier order of the Vice Chancellor".

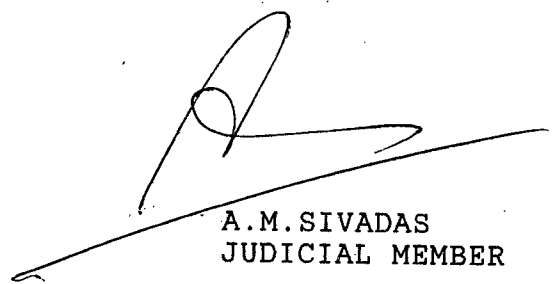
8. In the light of the ruling of the Apex court as well as of this bench of the Tribunal, this OA is only to be dismissed.

9. Accordingly the OA is dismissed.

Dated 19th September, 2001.



G.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M.SIVADAS
JUDICIAL MEMBER

aa.

APPENDIX

1. Annexure A1: True copy of the Order No.ST/40-7/97 dated 2/99 issued by the Assistant Post Master General, O/o the 2nd respondent to the applicant.
2. Annexure A2: True copy of the Memo No.86/4/K-24 dated 23.9.98 issued for the 1st respondent to the applicant.
3. Annexure A3: True copy of the representation dated 14.1.99 submitted by the applicant to the Director of Postal Services, Central Region, Kochi-16.

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