

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.-367/97

WEDNESDAY, THIS THE 2ND DAY OF JULY, 1998.

C O R A M:

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

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

T.K. Kurian
Extra Departmental Delivery Agent
Vettampara P.O.
Kothamangalam.

..Applicant

By Advocate Mr. O.V. Radhakrishnan

Vs

1. Sub Divisional Inspector of Post Offices,
Perumbavoor Postal Sub Division
Perumbavoor-683 542
2. Elsy K.O.
Kacharivil House,
Neriamangalam P.O.
Chempankuzhy.
3. Director General of Posts
Department of Posts,
New Delhi.
4. Union of India
represented by its Secretary,
Ministry of Communications,
New Delhi.

..Respondents

By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC for R 1, 3 & 4

By Advocate P. Jacob Varghese for R2

The application having been heard on 23.6.98, the Tribunal delivered the following on 2.7.1998.

O R D E R

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

The applicant was appointed provisionally as the Extra Departmental Delivery Agent, Vettampara Post Office, the post for short) and has been working as such since 2.12.96. When the 1st respondent initiated the process of recruitment for the said post on a regular basis, it was restricted initially to the candidates sponsored by the Employment Exchange. The



applicant then approached this Bench in O.A. 324/97 seeking a direction to the first respondent to consider his candidature also for selection for regular appointment to the post, along with the candidates sponsored by the Employment Exchange. That O.A. was allowed directing the first respondent to make the selection and appointment to the post considering the candidature of the applicant also.

2. The applicant was accordingly asked to appear before the first respondent for an interview for selection to that post on 6.3.97 with certain documents. However, he was finally not selected for the post. On the other hand, it is the 2nd respondent who was selected for the post and the impugned order dated 10.3.97 at A5 was issued.

3. The applicant has sought the following reliefs:

"i) to call for the records relating to Annexure A5 memo dated 10.3.97 and to set aside the same;

ii) to declare that the selection of the 2nd respondent for regular appointment as Extra Departmental Delivery Agent, Vettampara made solely on the basis of the marks secured in the preferential qualification of SSLC as illegal, arbitrary, unconstitutional and void;

iii) to issue appropriate direction or order directing the 1st respondent to conduct oral interview / test for assessing and evaluating the capacity, suitability and merit of candidates for selection for regular appointment to the post of Extra Departmental Delivery Agent, Vettampara in the absence of written test for the selection to the above post:



iv) to grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case; and

v) to award costs to the applicant."

4. The main grounds urged by the applicant for the reliefs prayed for by him are that the first respondent did not conduct a proper interview, that the second respondent i.e. the candidate selected for the post failed at the cycling test and therefore became ineligible for selection, and that the 2nd respondent has been selected primarily on the basis of the relatively higher marks secured by her at the SSLC Examination, even though under the existing instructions it is the merit of the candidate which should govern the selection for the post.

5. The official respondents as well as the party respondent i.e. the 2nd respondent, have opposed the reliefs claimed by the applicant. The official respondents have pointed out that the applicant was duly considered along with other eligible candidates. They have clarified further that no elaborate interview was held and that the purpose of the interview was to verify the originals of the requisite certificates and to judge the suitability of the candidates. No marks were allotted for the interview, the official respondents have admitted. However, the official respondents have averred that under the supervision of a Commissioner duly appointed by this Bench, the second respondent had successfully taken and passed the cycling test. She was therefore found suitable for the post. Further, since she

49

had attained higher marks at SSLC relative to the other candidates, she was selected being considered as more meritorious.

6. The second respondent, besides corroborating the stand taken by the official respondents, has further averred that at the interview she was asked a number of questions pertaining to the job of an EDDA. She has also produced a copy of the marks obtained by her at the SSLC Examination found at R2(a).

7. We have carefully gone through the pleadings in this case and have also heard the learned counsel appearing for the parties.

8. It has not been denied by the applicant that the second respondent was duly called for the interview which was held on 6.3.97. We also observe that this Bench had specifically ordered the appointment of a Commissioner to have the cycling test held for the second respondent and submit a report thereon. This order was passed by this Bench on 14.3.97 in the context of a specific dispute raised by the applicant to the effect that the second respondent did not know cycling and therefore she was not qualified for the post, even though on behalf of the second respondent it had been stated that the cycling test had been held and that she had passed the test. The Commissioner appointed by the Bench submitted a report on 18.3.97 specifically reporting that a cycling test was held on 15.3.97 and that the second respondent had successfully taken and passed the test. In the light of this specific finding, which has not been controverted by the applicant, we hold that the second respondent had qualified at the cycling test and therefore the challenge to the order of her selection at A5 on the alleged ground, inter alia, that she did not know cycling, is

RS

untenable. On this score that challenge evidently fails.

9. Coming to the other allegation that the first respondent did not conduct a proper interview, which he should have done as the only means to ascertain the merits of the candidates, we are unable to find much force behind the argument of the learned counsel for the applicant that in the absence of an elaborate interview, comprising specific questions and incorporating a system of marking, the selection of an E.D. Agent becomes illegal or even irregular. We observe that the post of an E.D. Agent admittedly is not either a full time post or a high post. It does not call for an exercise of higher intellectual powers. If the competent authorities in the Postal Department have not found it necessary to prescribe an elaborate interview for the selection of a candidate for appointment to the post or to set apart certain marks specifically for the interview, we find it difficult to convince ourselves that such an action becomes faulty and vitiates the process of selection. It seems to us that the merit of a candidate for a post like an E.D. Agent can certainly be judged based on an examination of the educational and other qualifications, his/her appearance and, where the knowledge of cycling is a pre-requisite for efficient functioning, such knowledge. A proper assessment of suitability of a candidate for the job of an E.D. Agent, in our opinion, cannot be held to be necessarily contingent upon a comprehensive system of interview. We feel, on the other hand, that the prescription or otherwise of a system of interview and of awarding of marks separately for the interview is a matter which lies squarely in the realm of administrative policy. The competent authority in the administrative Department is the

29

best judge as to whether these requirements should be laid down or not for a post like an E.D. Agent. In the absence of any such stipulation by the competent authority in the administrative Department laying down these requirements, the official respondents cannot be held guilty of any illegality or irregularity in not insisting on such an interview or subjecting the candidates who appeared for selection on 6.3.97 to such an interview or awarding marks to the candidates specifically for the interview.

10. It is well settled that the courts and tribunals cannot interfere in a matter where the relevant weightage of an interview has been raised as an issue. On this point, we would like to quote from the celebrated ruling of the Hon'ble Supreme Court in Lila-Dhar-Vs.-The-State-of-Rajasthan-and-Others-(1981 (3) SLR 56). The operative part of the judgment is quoted below:

"As already observed by us the weight to be given to the interview test should depend on the requirement of the service to which recruitment is made, the source material available for recruitment, the composition of the interview Board and several like factors. Ordinarily, recruitment to public service is regulated by rules made under the proviso to Art. 309 of the Constitution and would be usurping a function which is not ours, if we try to redetermine the appropriate method of selection and the relative weight be attached to the various tests. If we do that we would be rewriting the rules but we guard ourselves against being understood as saying that we would not interfere even in cases of proven or obvious oblique motive.

RJ

There is none in the present case."

(Emphasis supplied)

11. The other allegation is that it was irregular on the part of the first respondent to select the 2nd respondent primarily on the basis of the relatively higher marks obtained by her at the SSLC Examination. Here, we have to observe that when certain candidates were found suitable in terms of the educational qualifications, appearance, knowledge of cycling, etc., the administration took into account the relatively higher marks obtained by a candidate, as reflective of the higher merit possessed by that candidate.

12. The question is: is it open to the administration to do so without violating the fundamental rights of equal treatment before law and equal opportunities for Public Service under Articles 14 and 16 of our Constitution? According to us, the answer to this question has to be in the affirmative. Though merit is admittedly difficult to define, one of the objective criteria for judging the merit of a candidate vis-a-vis other contending candidates, who have all passed the SSLC Examination, can certainly be their relative performance at that examination. It is admitted that SSLC Examination has been prescribed as a preferential examination. Therefore, the relative performance of the candidate at the SSLC examination, in this view of the matter, can be adopted as an objective and unbiased criterion for judging the relative merits of the candidates.

13. We do not thus find any thing particularly discriminatory or untenable in adopting as a criterion for judging her merit the relatively higher marks obtained by

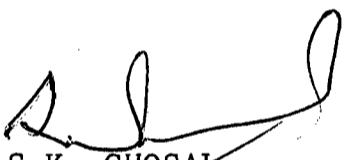


the second respondent at the SSLC Examination vis-a-vis the other candidates, including the applicant, who had appeared for the selection for regular appointment to the post of EDDA, Vettampara Post Office. We, on the other hand, strongly feel that higher marks at the SSLC Examination is a fairly dependable criterion to judge the merit of a candidate vis-a-vis other candidates all of whom may have been found suitable at the threshold.

14. In the light of the above discussion, we cannot persuade ourselves that the action of the first respondent in issuing the order of selection in favour of the second respondent suffers from any illegality or irregularity.

15. As a result, the O.A. is dismissed. No costs.

Dated the 2nd July, 1998.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

knn

LIST OF ANNEXURES

1. Annexure A5: Memo No.DA/Vettampara dated 10.3.97
of the 1st respondent.
2. Annexure R2(A); SSLC Marklist.

.....