

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.378/2002.

Tuesday this the 2nd day of July 2002.

CORAM:

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

J.Balakrishnan Chettiar,
Part-time Sweeper, Pallickal-Kilimanoor S.O.,
Attingal Sub Division,
Trivandrum District. Applicant

(By Advocate Shri Shafik M.A.)

Vs.

1. Union of India represented by
Secretary/Director General, Posts,
Ministry of Communications, New Delhi.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum.
3. The Superintendent of Post Offices,
Trivandrum North Division.
4. The Inspector, Posts,
Attingal Sub Division,
Attingal. Respondents


(By Advocate Shri P.M.M.Najeeb Khan, ACGSC)

The application having been heard on 2nd July, 2002
the Tribunal on the same day delivered the following:

O R D E R

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

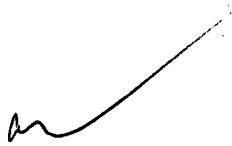
The applicant who has been working as Part time Sweeper in the Pallickal-Kilimanoor S.O., Attingal Sub Division continuously since 1.9.93 has filed this application aggrieved by A-1 order dated 3.12.2001 rejecting the applicant's claim for appointment as Extra Departmental Mail Carrier, Pallickal-Kilimanoor giving him preference as per the Director General of Posts letter dated 6.6.98, on the ground that for the initial engagement the applicant's name was not sponsored by the Employment Exchange. The applicant has, therefore, filed this application challenging A-1 order as also A-2 notification for making recruitment to the



post from open market. It is alleged in the application that since the applicant has been working continuously as Part-time Sweeper from 1993, the action on the part of the respondents in denying the benefit of preference in terms of DG's letter dated 6.6.98 is arbitrary and irrational.

2. Though the learned counsel of the respondents took time to file a statement, today when the matter came up for hearing before the Bench, learned counsel of the respondents submitted that she has been instructed to oppose the application on the ground that the applicant not having been sponsored by the Employment Exchange, is not entitled to any preference in comparison to outsiders, in terms of the D.G. Posts letter dated 6.6.98, though it is a fact that he has been working as Part time Sweeper continuously from 1.9.93. Counsel states that the matter can be decided on the basis of this submission without filing a statement by the respondents.

3. We have heard the learned counsel on either side. The fact that the applicant has been continuously working as Part-time Sweeper in the Pallickal-Kilimanoor Sub Office under the 4th respondent since 1.9.1993 is not in dispute. In terms of the instructions contained in the DG, Posts letter dated 6.6.98, a Casual Labourer, full-time or part-time, having completed the service of one year is entitled for preference in the matter of recruitment to the ED posts. This benefit is not being given to the applicant only for the reason that the applicant's name was not sponsored by the Employment Exchange for initial engagement as Part-time Sweeper. However the applicant has continued as



Part-time Sweeper without any break for nine years since 1993. Therefore the fact that the applicant's name was not sponsored by the Employment Exchange initially loses its significance, especially in view of the ruling of the Apex Court in Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. KBN Visweshwara Rao (1996 6 SCC 216). The conduct of the department in continuing the applicant as Part time Sweeper for nearly a decade without any objection shows that requirement of sponsorship by employment exchange has been waived in his case. An identical question was considered by this Bench of the Tribunal in O.A.360/99. It was held that the Part-time employee who has been in service for more than five years is entitled to preference in terms of the DG Posts letter dated 6.6.98, although initial engagement was not as sponsored by the Employment Exchange. We are in respectful agreement with the above view of the Tribunal and chose to follow that.

4. In the light of what is stated above, we allow this application and set aside the impugned orders and direct the respondents to consider the applicant as GDSMC, Pallickal-Kilimanoor S.O. in preference to outsiders and that only if the applicant or any other part-time or full-time casual labourers who are entitled to promotion is found unsuitable or ineligible for appointment as GDSMC, Pallickal-Kilimanoor S.O., recruitment from open market to the post should be resorted to. There is no order as to costs.


(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER


(A.V.HARIDASAN)
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Order No.B1C/Gen1. dated 3.12.2001 issued on behalf of the 3rd respondent.
2. A-2: True copy of the Notice No.GDSMC/SO/Pallickal-KMR dated 23.5.2002 issued by the 4th respondent.
3. A-3: True copy of the representation dated 15.10.2001 submitted before the 3rd respondent.
4. A-4: True copy of the representation dated 15.10.2001 submitted by the applicant before the 4th respondent.

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