

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.40/09

Tuesday this the 2nd day of February 2010

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

E.K.Vinukumar,
S/o.Karunakaran Nair,
GDS Mail Packer, Nanminda P.O.
Edolakandy House, Nanminda P.O.,
Kozhikode District.

...Applicant

(By Advocate Mr.Praveen K Joy)

V e r s u s

1. Union of India represented by Secretary,
Ministry of Communication, Department of Post,
New Delhi, India.
2. The Chief Post Master General,
Kerala Circle, Trivandrum.
3. The Inspector,
Department of Posts,
Calicut North Sub Division,
Calicut - 673 001.
4. The Post Master, GDS,
Sub Post Office, Nanminda, Calicut.

...Respondents

(By Advocate Mr.Sunil Jacob Jose,SCGSC)

This application having been heard on 2nd February 2010 the
Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant's challenge in this OA is against the Annexure A-5
Notification dated 5.12.2008 by which the respondents have invited
applications for appointment to the post of GDSMP, Nanminda Sub Post





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Office. The contention of the applicant is that he had a rightful claim over the said post. He has, therefore, sought a direction to quash and set aside the aforesaid Annexure A-5 Notification and to direct the respondents to permit him to continue in the aforesaid post. He has also sought a direction to the respondents to report vacancy of the aforesaid post and to confirm him against it in the interest of justice.

2. According to the applicant, he has been working as GDSMP for the last 20 years and from 10.9.2007 he has been continuously working against the said post in Nanminda Sub Post Office. He has also submitted that he possess all the requisite qualification for appointment to the aforesaid post. He has submitted that the action on the part of the 3rd respondent in issuing the Annexure A-5 Notification is absolutely illegal and, therefore, the same is liable to be set aside.

3. The respondents in their reply has denied the contention of the applicant that he has been working as GDSMP for the past 20 years. They have further submitted that the post of GDSMP, Nanminda Sub Post Office has fallen vacant with effect from 10.9.2007 consequent upon the promotion of the incumbent as Postman. The applicant was engaged against the aforesaid post initially for a period from 10.9.2007 to 19.9.2007 which was extended by another 89 days from 20.9.2007. Since the regular appointment could not be made to the said post immediately due to administrative reason the applicant was allowed to continue in the post. However, they have submitted that he has never been appointed on regular basis and his engagement was only till a regular appointment was made in accordance with the prescribed procedure. They have further



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submitted that pursuant to the Annexure A-5 Notification for the aforesaid post of GDSMP, Nanminda Sub Post Office, the vacancy was also notified through the Employment Exchange separately on 6.12.2008 and 19 applications including that of the applicant have been received.

4. We have heard Shri.Praveen K Joy for the applicant and Shri.Rajesh on behalf of Shri.Sunil Jacob Jose,SCGSC for the respondents. It is seen that the applicant was engaged on a stop gap basis in the place of the regular incumbent to the post of GDSMP, Nanminda Sub Post Office on the promotion of the incumbent as Postman. He has not undergone the selection process for regular appointment. The Annexure A-5 Notification has been issued to fill up the aforesaid post on regular basis in accordance with the prescribed procedure. The applicant has no valid preferential claim over that post. Rather he himself is aware about his status and he is one of the candidates for the aforesaid post. In our considered opinion, by filing OA, the applicant is trying to only stall the regular selection process so that he can continue in the present post as long as possible. We dismiss this OA as a frivolous one. As the applicant is working only as a GDSMP on stop gap basis which is a very low post, we take a lenient view in this matter and do not impose any cost on him.

(Dated this 2nd day of February 2010)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



GEORGE PARACKEN
JUDICIAL MEMBER

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