

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No. 41

1992

DATE OF DECISION 9.7.92

M. Ramani Applicant (s)

Mr. M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Supdt. of Post Offices, Mavelikkara & others Respondent (s)

Mr. George Joseph, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.S. HABEEB MOHAMED, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is aggrieved by the termination of her service from the post of E.D. S.P.M., Thamallackal Post Office.

2. According to the applicant, she is a permanent resident of Kumarapuram Village and she has passed SSLC and fully eligible to be appointed as EDSPM. She worked during the year 1990 in Kumarapuram Post Office. Thereafter, when one K.K. Josen was promoted as Postman at Kayamkulam, the applicant was allowed to take charge as EDSPM, Thamallackal from 13.2.91 to 3.11.91. She further submitted that from 13.2.91 upto 3.11.91 she worked 252 days and her service is to be taken as provisional service for the purpose of getting statutory protection.

3. In the meantime, the first respondent initiated steps for selection of a regular EDSPM in the newly formed Post Office at Thamallackal North(Kattil Market P.O.). In these circumstances the applicant filed this application with the following prayers:

- "i) To declare that the termination of her services from the post of EDSPM, Thamallackal Post office is null and void and to direct the respondent to reinstate the applicant with backwages.
- ii) To direct the respondents to consider the applicant for regular appointment as EDBPM, Kattil Market P.O. by giving her weightage/preference; ..."

4. The respondents have filed a statement and also a counter affidavit denying the averments and allegations in the Application. They have contended that the applicant continued in the post office only as a substitute for a period of 154 days from 1.6.91 to 3.11.91. Hence, the claim of the applicant that she has got provisional service cannot be accepted.

5. At the time when the case came up for final hearing, the learned counsel for the respondents submitted that the applicant was also considered along with other candidates sponsored by the Employment Exchange. But, in the regular selection, the applicant could not be selected-one. Nirmalakumari is found to be suitable for the post and she is selected.

6. The learned counsel for the applicant vehemently contended that the applicant's engagement in the post office was provisional and she was allowed to join in place of Josen who was promoted as postman. Hence, the applicant's service should be deemed as a provisional ~~hand~~ ^{service}. The applicant in the rejoinder submitted that the applicant ~~is working as~~ ^{was} ~~service~~ as EDSPM from 23.2.91 would have ^{been} ~~been~~ continued so as to enable her to serve for the total period of 240 days but for the induction

of one E.K. Thomas by the Department. The applicant alleges that this induction itself was contrary to the judgment of the Tribunal and later in the light of ~~the~~ contempt petition, his service was also terminated.

7. However, in the view that we are taking in this case, we feel that it is not necessary for us to go into all the controversies on the right of the applicant for getting priority on the basis of alleged previous service. Since ~~this~~ in the regular selection another person has been selected, it is necessary that the respondents 1 & 2 should be given the freedom to appoint the selected candidate as EDSPM. ^{Hence we} However, we make it clear that the respondents shall appoint the newly selected candidate in the post. But, it goes without saying that considering the previous experience of the applicant, if any other vacancy arises in the nearabout area the respondents should consider the claim of the applicant for giving her appointment ~~as~~ ^{as} ~~possible~~ in the post office having regard to the facts and circumstances of the case as claimed in the application.

8. With these observations, we close the application.

9. There will be no order as to costs.

N. Dharmadan
9.7.92.

(N. Dharmadan)
Judicial Member

P.S. Habeeb Mohamed
(P.S. Habeeb Mohamed)
Administrative Member

KMN