

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 399
T. A. No.

199 1

DATE OF DECISION 3.4.92

K.R. Rajendran Pillai Applicant (s) ✓

Mr. O.V. Radhakrishnan Advocate for the Applicant (s) ✓

Versus

Sr. Supdt. of Post Offices, Respondent (s)
Kollam and others

Mr. K.B. Subhagamani, ACGSC Advocate for the Respondent (s) 1-3
Mr. D. Sreekumar Govt. Pleader for R-5

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? ^{ye}
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 who had prior service as Extra Departmental Agent, ~~xxxxxxxxxxxx~~⁴, Peruman Branch Post Office as 'substitute' from 1985, filed this application challenging Annexure-I letter of the Sub Divisional Inspector of the Post Office intimating that the applicant shall not be engaged hereafter as 'substitute.' and for consequential benefits.

2. According to the applicant, he worked as E.D. Agent from 3.10.85 to 5.10.1985 and thereafter on various spells till 8.2.1991 when he received Annexure-I, when vacancy arose in the post office, Peruman on account of leave or other circumstances. After Annexure-I, the fourth respondent

was appointed in the place of the applicant without conducting any selection. The applicant later amended the application and raised the following reliefs:

- "i) to call for the records relating to Ext. A-1 memo dated 8.2.91 of the 2nd respondent and Ext. A-3 notification dated 5.7.91 of the 5th respondent and to set aside the same;
- ii) to direct the 1st respondent to make selection for regular appointment to the post of EDBPM, Perumon Post Office as expeditiously as possible and to consider the applicant for selection for regular appointment to the post giving due weightage to his previous experience.
- iii) to direct the 1st respondent to engage the applicant on provisional basis against the vacancy of EDBPM, Peruman pending selection for regular appointment to the post without regard to Ext. A-1 memo dated 8.2.91 displacing the 4th respondent;
- 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."

3. The main grievance of the applicant is that the first respondent without conducting a regular selection to the post of EDBPM, Perumon Post Office, debarred the applicant from continuing from the engagement as substitute EDBPM and filled up that post by appointing the fourth respondent on a provisional basis.

4. During the pendency of the Application, on the basis of the I.R. issued by the Tribunal, when ^{regular} selection for appointment to the post of EDBPM, Peruman was held, the applicant was also interviewed and Smt. Vasanthakumari is reported to be selected. But the applicant contended that it has not been finalised and therefore he has not impleaded the selected candidate.

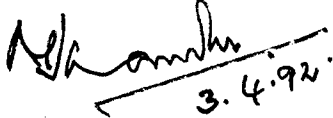
5. From the additional reply statement filed by the respondents on 30.3.91, it is seen that Smt. Vasanthakumari who secured 277 marks out of 600 in the SSLC has been selected. The minutes of the selection proceedings was produced as Annexure R-3 along with the statement.

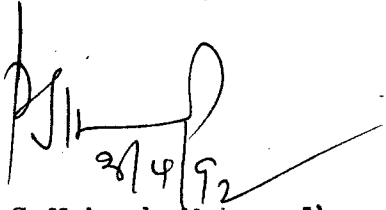
6. Having heard the matter, we are of the view that the decision of the Sub Divisional Inspector debarring the applicant from continuing in the post of EDBPM as a substitute, cannot be sustained. The respondents have not explained in the counter affidavit the power and authority under which Annexure-I has been passed.

7. Having regard to the facts and circumstances of the case, we are of the view that Annexure-I cannot be sustained. Accordingly, we quash the same.

8. We are not considering the other contentions raised by the applicant attacking Annexure R-3 selection proceedings. ⁴ Since the applicant has not impleaded the selected candidate Smt. Vasantakumari in these proceedings and challenged her appointment, ⁴ ~~we are~~ ^{it is necessary for us to} not ⁴ going into further contentions raised by the applicant. We leave ^{it to} the authorities to take appropriate steps in pursuance of the selection, making it clear that the applicant, if he is aggrieved by the ~~nature of the~~ ⁴ action of the respondent, he is at liberty to take appropriate action as advised.

9. With these observations, the application is allowed ^{to this limited extent as above.} ⁴
There will be no order as to costs.


(N. Dharmadan)
Judicial Member


(P.S. Habeeb Mohamed)
Administrative Member