

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.401/2002

Wednesday, this the 11th day of June, 2003

CORAM:

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

V.K.Padmini,
Parakkottil House,
Perimbedari.P.O.
Mannarkkad Taluk,
Palakkad District. - Applicant

By Advocate Mr M.V.Haridas Menon

Vs

1. Post Master General,
O/o the Post Master General,
Department of Post,
Government of India,
Kozhikode.
2. Superintendent,
O/o the Superintendent of Post Offices,
Ottapalam Division,
Ottapalam, Palakkad District.
3. Union of India represented by
the Secretary to Government of India,
Department of Post,
New Delhi-1.
4. Sujeesh,
Branch Post Master,
Nattukal Post Office,
Palakkad District. - Respondents

By Advocate Mr KR Rajkumar, ACGSC (for R.1 to 3)

By Advocate Mr PC Sebastian(for R-4)

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HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant who claims to be working as Gramin Dak
Sevak Branch Post Master(GDSBPM), Kallamala since 14.7.97

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responded to A-1 notification dated 5.11.2001 calling for applications from interested GDS for appointment by transfer of GDSBPM, Nattukal under Ottapalam Division. After going through the required formalities, the applicant is disappointed to find that her request is ignored and that the 4th respondent, who is only a GDSMC of MES Kallad College Sub Post Office, is appointed as GDSBPM, Nattukal. She made A-5 representation dated 8.4.2002 for reconsideration of the matter. But it evoked no response. According to the applicant, the 4th respondent who is selected for appointment is not qualified to be appointed by transfer as EDBPM since she was only an EDMC which is a rank lower than EDBPM. On the other hand, the applicant being a GDSBPM has superior claim since the post sought for by her is also GDSBPM only. Maintaining that her claim was ignored unjustly, the applicant seeks to get the order of appointment of the 4th respondent set aside and to obtain a declaration in her favour to the effect that she is entitled to be appointed by transfer as GDSBPM, Nattukal. A direction to that effect to the respondents is also sought for.

2. In their reply statement, the official respondents resist the application on the ground that the 4th respondent was eligible for appointment by transfer and that she had superior merit as compared to the applicant. It is also stated by the official respondents that the applicant had been appointed as GDS with effect from 6.12.1999 with weightage for earlier service from 14.7.97 for seniority and other service benefits. The respondents would disclose that 5 applications

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were received in response to A-1 notification for the post of GDSBPM, Nattukal. The candidate who got highest mark in SSLC could not be considered since it was a case of second transfer. The second candidate was not considered as he did not have independent source of income. The 4th respondent, Shri Sujeesh was the third candidate in the order of merit with 302 marks for SSLC. Further, the GDSMC post which he was occupying was abolished with the introduction of mechanisation in that Post Office. Thus, his post was rendered surplus on account of mechanisation. As all the GDS employees were eligible to be considered in accordance with the DG, Post's letter dated 12.9.88 as clarified by subsequent letter dated 28.8.96, the 4th respondent was also eligible and the applicant could have no legitimate grievance in that regard, official respondents would maintain.

3. The 4th respondent also has filed a reply statement. Pointing out that he was appointed as GDSMC, Kallad Sub Post Office with effect from 3.1.96 ^{and} that being a retrenched GDS having higher marks in SSLC, he had a better claim to be appointed as GDSBPM, Nattukal in terms of the instructions contained in the DG, Post's letter dated 12.9.88 and further clarificatory letter dated 28.8.96.

4. We have considered the pleadings on record and have also heard Shri M.V.Haridas Menon, learned counsel for the applicant and Shri K.R.Rajkumar, learned ACGSC. Learned counsel for the applicant would maintain that the applicant being a GDSBPM had preferential claim to be appointed by

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transfer as GDSBPM in another place within the same division. It is stated by the learned counsel that the 4th respondent was not rendered surplus when application was called for and that therefore, it was a subsequent event. The applicant being a lady of past 50 and already occupying the post of GDSBPM had therefore, a better claim to be posted on an analogous post by transfer. Shri K.R.Rajkumar, learned ACGSC would state that both the applicant and the 4th respondent are GDS employees, that the 4th respondent as a GDSMC did not have any disadvantage in the matter of eligibility for transfer and that the sole criterion being the marks obtained in the SSLC, the 4th respondent's case had to be considered in preference to the applicant's claim.

5. The question that requires to be answered is whether the official respondents are justified in appointing the 4th respondent, Shri Sujeesh by transfer as GDSBPM, Nattukal in preference to the applicant. On a careful consideration of the relevant facts, we are of the view that under the existing rules and instructions, the 4th respondent has a better claim for appointment by transfer as GDSBPM, Nattukal. It is true that the applicant is past 50 and is stated to have some health problems too. But appointment by transfer has to be done strictly in accordance with the rules. If provisions of relaxation exist, such provisions could no doubt be applied so that justice is done to a deserving person. In this case, however, we notice that the 4th respondent has been in regular service as EDA, now renamed as GDS since 1.1.96 whereas, even with her notional seniority, the applicant is a GDS since

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14.7.97 only. The 4th respondent having obtained 302 marks out of 600 marks in SSLC should get preference over the applicant who secured only 292 out of 600 for SSLC. The argument that in matters of appointment by transfer, GDSBPM should get preferential treatment as compared to GDSMC is not supported by any rule or instruction. The DG, Post's letter No.17-60/95-ED & Trg. dated 28.8.96(vide R-1(b) in clarification of the earlier letter dated 12.9.88) makes it clear that preference is to be given to ED Agents having higher marks in Matriculation examination when selection is made for the post of EDBPM/SPM, if they otherwise satisfied the eligibility criteria. Further, it is also clarified that surplus ED Agents whose names for deployment appear in the waiting.list should be given preference in the matter of appointment by transfer as GDS employees. When GDSMCs post are abolished due to administrative reasons, they are rendered surplus and they have to be given preference over others in the matter of transfer. This is the position borne out by R-1(b)) dated 28.8.96. The post of GDSMC, Kallamala, which the 4th respondent was holding was ordered to be abolished with effect from 1.4.2002. No doubt, this is an event that has taken place subsequent to A-1 notification calling for application for the post of GDSBPM, Nattukal for appointment by transfer. But since the 4th respondent satisfies all other eligibility criteria and by those criteria themselves he has a superior claim vis-a-vis the applicant, there could not be any legitimate objection to his appointment by transfer as GDSBPM, Nattukal.

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6. In the light of the above facts, we see no reason to interfere in this matter as the official respondents have acted in accordance with the extant rules and instructions regarding appointment by transfer of GDS. In the result, the application fails and the same is accordingly dismissed. There is no order as to costs.

Wednesday, this the 11th day of June, 2003


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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