

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.406/2002.

Thursday this the 18th day of July 2002.

CORAM:

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

M.Siyad, Part-time Sweeper,
Alancode P.O., residing at
Kunnumpurathu Veedu,
Thenchery Konam, Alancode P.O. Applicant

(By Advocate Shri Vishnu S.Chempazhanthiyil)

vs.

1. Sub Post Master, Alancode P.O.
2. Sub Divisional Inspector of Post Offices, Attingal - 695 101.
3. Senior Superintendent of Post Offices, North Postal Division, Thiruvananthapuram.
4. Union of India represented by its Secretary, Ministry of Communications
New Delhi-110 001. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 18th 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 was working as Part time Sweeper in the office of the first respondent for the last three years has filed this application aggrieved by the non-consideration by the 2nd respondent the request of the applicant made in A2 and A4 representations to consider him for appointment to the post of Extra Departmental Mail Carrier (EDMC for short), Ilamba Branch Office giving him preference in accordance with the letter of Director General of Posts dated 6.6.1988(A6). The applicant has therefore, filed this application for the following reliefs:

1. Declare that the applicant is entitled to be considered for the post of Mail Carrier Ilamba on preferential basis and direct the 2nd respondent to take action accordingly.

2. Direct the 2nd respondent to consider and pass orders on Annexure A3 before taking further action pursuant to Annexure A3 notification.
3. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
4. Award the cost of these proceedings."

2. Although the Senior Central Government Standing Counsel took notice on behalf of the respondents, he did not file any reply statement and stated that the application may be finally disposed of on the basis of the oral submission now made by him under the instructions from the respondents. He stated that the fact that the applicant has been working as Part-time Sweeper continuously for three years is not disputed but according to the respondents as the applicant's initial engagement as Part-time Sweeper was not made through the Employment Exchange, he is not entitled to any preference especially according to the instructions contained in paragraph 4 of the DG's letter dated 6.6.88 (A6).

3. The short question that arises for consideration is whether a Casual Labourer, part-time or full-time, has been continuously working for a number of years can the benefit of preference in appointment to ED Posts in terms of DG Posts letter dated 6.6.1988 denied to him for the mere reason that his initial engagement as Casual Labour was not through the agency of the Employment Exchange?

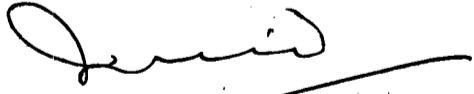
4. We have heard the learned counsel on either side. We had occasions to consider this question in a number of cases earlier. In O.A.818/00 it was held that the denial of the benefit of preference in appointment to ED Posts for a casual labourer working in the same office for a long time on the ground that he was not sponsored by the Employment Exchange is unsustainable.

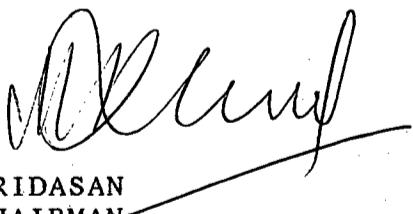
M

In the case of the applicant the fact that he has been working in the department as a Casual Labourer continuously for the last three years is not disputed. The casual engagement of the applicant cannot be considered as a stop gap arrangement because he is being continued without any objection from the higher authorities. The circumstances indicated that the sponsorship by Employment Exchange was waived in the case of the applicant. Since the applicant has been continuing as Part time Sweeper continuously for three years and has obviously put in more than 240 days in a year, the stand of the respondents that he would not be given the preference in appointment to ED Posts cannot at all be justified.

5. In the result, the application is disposed of declaring that the applicant having continuously worked as Part-time Sweeper in the office of the first respondent ----- for more than three years is entitled to be considered for appointment as EDMC (GDSMC), Ilamba with due preference in terms of DG Posts letter dated 6.6.1988 (A6) and directing the respondents 1 to 3 to consider the applicant to the post giving him such preference and that recruitment action initiated under Annexure A3 notification need be proceeded further only if the applicant or any person eligible for preference according to A-6 and has applied found unsuitable for appointment as EDMC, Ilamba. No costs.

Dated the 18th July, 2002.


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 photocopy of the front page & marklist of SSLC.
2. A-2: True copy of the representation dated 2.2.2002 to the 2nd respondent.
3. A-2(a): English translation of Annexure A-2.
4. A-3: True copy of the notification No.GDS MC/BO/Ilamba dated 22.5.2002 of the 2nd respondent.
5. A-4: True copy of the representation dated 6.6.2002 to the 3rd respondent.
6. A-4(a): English translation of Annexure A-4.
7. A-5: True photocopy of the registered receipts.
8. A-6: True copy of letter No.17/141/88-EDC & Trg. dated 6.6.1988 of the Director General, Posts.

npp
26.7.02