CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED 30TH OCTOBER ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

PRESENT

HON'BLE SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. No. 363/89
O.A. No. 376/89
O.A. No. 407/89

K. P. Muraleedharan	Applicant in O.A. 407/89
M. M. Abdul Khader	Applicant in O.A. 376/89
T. M. Baker	Applicant in O.A. 363/89

Vs.

1. The Senior Superintendent of Post Offices, Ernakulam	Common respondents in all the three cases
2. Union of India represented by its Secretary to the Government, Ministry of Communications, New Delhi	
3. Shri T. V. Sanjeev Kumar Thekkineth House, Jusumagiri Cochin-30	
4. Divisional Employment Officer, Employment Exchange, Ernakulam	Respondent in O.A. 407/89
M/s. P.V. Asha & Tharian Joseph	Counsel for the applicant in O.A. 407/89
Mr. M. R. Rajendran Nair	Counsel for the applicant in O.A. 363/89 & 376/89
Mr. P. V. Madhavan Nambiar, SCGSC	Respondents Counsel for 1, 2 & 4 in O.A. 407/89,
Mr. P. Santhalingam, ACGSC	Counsel for R-1 & 2 in O.A. 376/89 & O.A. 363/89
Mr. T. Ravikumar	Counsel for R-3 in O.A. 376/89 & O.A. 363/89
Mr. P.V. Mohanan	Counsel for R-2 in O.A. 407/89

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JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The petitioners in these connected cases have a common grievance against the appointment of Shri Sanjiv Kumar as Extra Departmental Branch Post Master, Kusumagiri, the third respondent in all the cases. The question arising for consideration in all these cases being common, they were heard together on agreement of parties.

2. The facts of the three cases are as follows: The applicant in O.A. 363/86 is at present working as substitute EDBPM, Kusumagiri, on provisional basis from 28.12.1988. While so, memorandum No. 87/89 dated 20.3.1989 Annexure-I was issued by the first respondent inviting application for the appointment to the post on a regular basis. Interview for the post was held on 15.6.1989 in which the applicant was also interviewed. But the third respondent was appointed overlooking his preferential right and superior qualifications. Hence, he approached this Tribunal for quashing the selection of the third respondent on various grounds.

3. The applicant in O.A. 376/89 is also an aspirant for the post of EDBPM in the Kusumagiri Postoffice since he is fully qualified and registered with the Employment Exchange on 14.10.1981. According to him, he is residing within the delivery area of Kusumagiri postoffice and he has the education qualifications prescribed for the post.

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But the Employment Exchange has not sponsored his name for selection to be held by the first respondent. The applicant further contended that this was done with the deliberate intention of avoiding the better qualified persons including the petitioner. He also submitted that the third respondent is not fully qualified but he has been selected due to his influence. On these facts, the applicant in this case seeks to quash the selection of the third respondent. He also prays that he may be considered for appointment to the post of EDBPM.

4. The applicant in O.A. 407/89 is also aggrieved by the non-consideration of his name either by the Employment Exchange, the fourth respondent, or by the appointing authority. According to the applicant he is also a resident within the delivery area of Kusumagiri postoffice. He passed SSLC examination with 317 marks out of 600. He registered his name with the Employment Exchange, Ernakulam on 19.1.1976, and the registration is being renewed annually. He could know about the selection of a regular hand for appointment in the Kusumagiri postoffice through a news item in the Malayala Manorama Daily dated 13.3.1989 giving information about the vacancy and requesting eligible candidates to appear before the District Employment Officer on or before 15.3.1989. Annexure-A is the English version of this news item. Pursuant to Annexure-A he appeared before the fourth respondent but he was told that he would be informed of the selection later. Thereafter, nothing

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was heard. So he was unable to contest for the selection along with the candidates. On account of the information given by the fourth respondent he was not able to apply for the post pursuant to Annexure-2 notification issued by the first respondent. Thereafter, he got information about the selection of the third respondent as EDBPM. Hence, he also approached the Tribunal for quashing the selection of the third respondent as EDBPM, Kusumagiri postoffice.

5. Here is an unusual situation where three applicants in one voice opposse the appointment of the third respondent as EDBPM, Kusumagiri by the first respondent. Though in all these cases, the respondents 1 & 2 have filed counter affidavit and contested the matter very earnestly, we feel that the selection of the third respondent was not made by the first respondent strictly in accordance with the norms prescribed for the selection.

6. Annexure-I produced in O.A. 363/89 is the memorandum dated 20.3.1989 inviting application for the post which contains the qualifications and eligibility criteria for the selection. The following are the main requirements:

i) The candidate should have passed VIII standard, those who have passed SSLC will be preferred;

ii) Candidates should have independent income from other source and the independent income

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continue to be available even after he accept the appointment as EDBPM;

(iii) The selected candidates should provide accommodation for the post office on his own cost at the locality and

(iv) The selected candidate should be a permanent resident within the delivery area of the postoffice.

7. It was brought to our notice in the course of the and in the rejoinder filed by the applicant in O.A. 363/89 arguments/that the last date for submission of the application for the post asper the notification was 10.4.1989. The third respondent's application was submitted stating 'nil' in column requiring him to show his income. Further irregularities in the issue of notification, selection, etc. were also pointed out at the time of hearing and the matter was heard at length. The applicant in OA 363/89 has submitted that on account of the intervention of some interested person, the revised application along with necessary certificate of income was received by the first respondent on 20.4.1989. He further submitted that even on 20.4.1989, the third respondent did not own any property.

8. In the counter affidavit filed by respondents 1 & 2 it is stated that Annexure R-1(a) a certificate issued by the Tahsildar discloses an independent income which is arrived at Rs. 4200 for the third respondent. According to the respondents, this certificate is clear enough to satisfy the requirement for making the third respondent eligible for the post. But we are not at this stage

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deciding on the issues urged by the counsels on either side. On the facts and circumstances of the case, we have come to the conclusion that the selection of the third respondent cannot be sustained in view of the contention raised by the applicants in all these cases. We have posted the cases twice after hearing only to ascertain the possibility of passing an agreed order so as to make a fresh selection in accordance with law giving opportunity for all concerned. But the third respondent did not appear on bothered to contest. So we presume that all the parties are not agreeable for such a course. However, we are taking a decision in the interest of justice for a reconsideration of the selection of the third respondent.

9. Hence, on the facts and circumstances of the case we are not inclined to hold that the selection of the third respondent to the post of EDBPM made by the first respondent as valid. The only course open to us is to direct a fresh selection according to the rules from the candidates already applied for the post including the applicants who have approached this Tribunal.

10. So far as the applicant in 407/89 is concerned, though he is fully eligible he has not filed the application nor his name was sponsored by the Employment Exchange in spite of the fact that he has also registered with the Employment Exchange as early as on 14.10.1981. But nevertheless, in the interest of justice, we feel that this application also deserves to be considered for the new

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selection because he has got legitimate explanation for not having submitted the application in spite of the notification Annexure-I. He has stated that he was prevented from applying on account of the statement given by the first respondent on 15.3.1989 when he appeared before the officer in pursuance of the news item Annexure-I which appeared in the Manorama Daily, that he will be infomred of the selection later. But in the mean time without giving any such information the selection was made and the third respondent was appointed. So justice requires that he should also be given an opportunity to contest for the selection. Hence, his case also requires to be considered if otherwise eligible.

11. Having regard to the facts and circumstances of the case, we quash the order of the appointment of the third respondent and direct the first respondent to make a de novo selection to the post of EDBPM to the Kusumagiri, Post Office from among (i) names sponsored by the Employment Exchange (not considered earlier because according to the respondents these applications were received late and therefore notification inviting applications for the post was issued) (ii) the applications already received pursuant to the notification including the three petitioners who filed the above case, if all of them are fully eligible according to the norms fixed for the selection and make a fresh selection strictly in accordance with law taking into consideration the above observations within a period of three months.

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12. The above three cases are disposed of by this common order with the above directions.

13. There is no order as to costs.

30/8/89

(N. Dharmadan)
Judicial Member

(N. V. Krishnan)
Administrative Member

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