

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.410/99

Tuesday, this the 10th day of July, 2001.

CORAM;

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

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

C.V.Bhaskaran,
Extra Departmental Delivery Agent,
Parekkanny, Nellimattom(via),
PIN-686 693. - Applicant

By Advocate Mr MR Rajendran Nair

Vs

1. The Senior Superintendent of Post Offices,
Aluva Division,
Aluva.
2. The Post Master General,
Central Region, Kochi.
3. The Chief Post Master General,
Kerala Circle,
Trivandrum. - Respondents

By Advocate Mr TC Krishna, ACGSC

The application having been heard on 10.7.2001, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant was intermittently working as substitute Extra Departmental Agent from 26.5.84, and later was continuously engaged from 1.6.86 provisionally. While his services were terminated, he filed O.A.K.97/87 and as per the interim order passed in that case, the applicant was also

(v)

considered for regular appointment. However, one Mr T.R.Sasi was selected for regular appointment as EDDA, Chathamattom. Apprehending termination of his service in violation of the provisions of Industrial Disputes Act, the applicant filed O.A.503/89. The Tribunal disposed of the said application by order dated 9.1.90 holding that while the applicant could not claim regular appointment, the termination of his service without complying with the provisions of Chapter V-A of the I.D.Act was illegal and directing the respondents to accommodate the applicant in any post that may arise in the Division shortly. Pursuant to the above order of the Tribunal, the applicant was appointed as EDDA, Pareekanny by order dated 10.5.90. The present grievance of the applicant is that though he applied pursuant to A-3 notification dated 22.1.99 for appearing in the departmental test for appointment as Postman/Mailguard, he was not allowed to take the examination. The applicant, has therefore, filed this application for a declaration that he is eligible to participate in the Postman test scheduled to be held on 11.4.99 and to direct the respondents to permit the applicant to participate in the test for recruitment to the post of Postman scheduled to be held on 11.4.99.

2. The respondents have filed a reply statement and an additional reply statement. It is contended that the applicant is ineligible to appear in the examination, as he does not possess the Matriculation/Xth Standard which is a

✓

condition precedent for ED Agents who have been recruited after 25.9.87 to appear for the Postman/Mailguard examination. As the applicant's service as ED Agent before he was appointed regularly by order dated 10.5.90(A-2) being only provisional engagement and not an appointment after recruitment, the respondents contend that the applicant can be treated as recruited only with effect from 10.5.90.

3. We have heard the learned counsel on either side with meticulous care and gone through the entire pleadings in this case. The sole question that falls for consideration is whether the applicant was recruited after 25.9.87 as an ED Agent and therefore, is he ineligible for appearing in the examination, as contended by the respondents because he does not possess the Matriculation/Xth Standard qualification. Learned counsel of the applicant Shri Hariraj argued that the applicant was very much in service on 25.9.87, because his provisional engagement started way back in 1986. Inviting our attention to a decision of this Bench of the Tribunal in O.A.188/98 holding that for reckoning the length of service for determining the eligibility to participate in Postman/Mailguard examination, provisional service as ED Agent also should be counted. The counsel argued that in the same analogy the date on which the applicant commenced his provisional service should be treated as a date of his recruitment and therefore, the applicant having entered provisional service prior to 25.9.87, the requirement of minimum educational qualification is not attracted in his

(Signature)

case. We are not persuaded to accept this argument. The applicant was recruited in the year 1990 for his regular appointment. Prior to that, he was only provisionally engaged. In the order in O.A.503/99, the Tribunal held that the applicant was on provisional service and could not claim regular appointment. His regular appointment to the post of EDDA therefore, having been made only on 11.5.90, we are of the considered view that the applicant having been recruited after 25.9.87, is not eligible to take the examination since he does not possess the Matriculation/Xth Standard qualification which is the minimum educational qualification prescribed for those ED Agents recruited after 29.5.87. A reading of paragraph 7 and 8 of the circular dated 22.1.99(of A-3) which reads as follows:

"7. Educational qualifications:

- i) For ED Agents who were in service on 25.9.87 there will be no minimum educational qualification.
- ii) For ED Agents recruited after 25.9.87, a pass in the matriculation i.e. Class X of the Board of Examination conducted either by State Government or Central Board of Secondary Education is essential.

8. Length of Service:

- i) The length of service will be determined with reference to the date from which ED Agent is continuously working after regular appointment to the post ignoring all spells of absence. Unauthorised absence, if any, will constitute a break in service and only the service after the break-in-service will count for determining the length of service.
- ii) The past service of an ED Agent in case of his discharge from service on upgradation of the post and who was offered alternative appointment within one year will be counted from the date of his initial appointment (not continuous appointment). The interruption will be ignored. The concession will be applicable only if the ED Agent was regularly

appointed in a particular post (and not worked as substitute from some time and got regular appointment later).

iii) ED Agents appointed to any departmental post like Group-D will not be eligible to appear against the outside quota of vacancies."

will make it clear that only those who are regularly appointed prior to 25.9.87 would be exempted from the requirement of minimum educational qualification.

4. In the light of what is stated above, finding no merit the application is dismissed, leaving the parties to bear their costs.

Dated, the 10th July, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-2: True copy of the order dated 10.5.90 No.DA/Chathamattom issued by the Sub Divisional Inspector (Postal), Perumbavoor Sub Division, Perumbavoor.
2. A-3: True copy of the Circular No.BB 52/99 dated 8.2.99 issued by the 1st respondent.