

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:-

25 FD 1994

APPLICATION NUMBER: 649 of 1994.

APPLICANTS:

Smt. B.S. Kamalakumari v/s. The Sr. Supdt of Post Offices, Shimoga
Division and two others.

1. Sri. S. Ranganatha Jois, Advocate, No. 36
Vagdevi, Shankarapark, Shankarapuram,
Bangalore-560004.
2. Sri. G. Shanthappa, Addl. C.G.S.C.,
High Court Bldg, Bangalore-1.
3. Sri. G. Venkatachala, Advocate,
No. 16, Second Floor, S.S.B. Mutt Bldg,
Tank Bund Road, Bangalore-560 009.

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 17-08-1994.

Issued on

05.09.94 B

of

Sc. Shanthappa
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A.No.649/94

WEDNESDAY THIS THE SEVENTEENTH DAY OF AUGUST 1994

Shri Justice P.K. Shyamasundar ... Vice-Chairman

Shri T.V. Ramanan ... Member [A]

Smt. B.S. Kamalakumari,
W/o A.P. Suryanarayana Bhatta,
Major,
At & Post Aralasurali,
Thirthahalli Taluk,
Shimoga District.

..Applicant

[By Advocate Shri S. Ranganatha Jois]

v.

1. The Senior Superintendent
of post Office,
Shimoga Division, Shimoga.

2. The Assistant Superintendent of
Post, Shimoga West Sub-Division,
Shimoga.

3. M.S. Subbaramanya Bhatta,
S/o Sesha Bhatta, Major,
Post Master,
Residing at Malligemane,
Aralasurali Post,
Thirthahalli Taluk,
Shimoga Distt.

... Respondents

[By Advocate Shri G. Shanthappa for R-1 and 2
and Shri G. Venkatachala for R-3]

REASONABLE ORDER

Shri Justice P.K. Shyamsundar, Vice-Chairman;

1. We are sorry that we cannot assist the applicant
herein. The present application is the upshot of
our order passed while disposing of O.A. No.662/93
disposed of on 10.2.1994 wherein the contenders were
the very persons who are parties to this application



but in the reverse order. While Smt. B.S. Kamala-kumari, the applicant herein was the respondent No.3 in the earlier application, the 3rd respondent herein Shri M.S. Subramanya Bhatta was the applicant in the case in O.A. No.662/93 who had challenged the appointment of the applicant herein as extra departmental Branch Post master in Aralasurali, Thirthahalli Taluk, Shimoga Distt. That application having succeeded we directed the department to re-do the selection confining it only to Subramanya Bhatta and Smt. Kamala-kumari and in the reselection it was Shri Subramanya Bhatta who got the nod of the department in the matter of appointment as can be seen from Annexure A-3. It is now the applicant, who failed to catch the eye of the department, challenges the impugned selection and appointment of Subramanya Bhatta.

2. For our consideration two grounds were urged by Shri Ranganatha Jois. He invites our attention to the admitted fact that the applicant Smt. Kamala-kumari had secured more marks in SSLC examination than Subramanya Bhatta. The second ground he raises is that Subramanya Bhatta was not a resident of the village, an aspect which has been concluded by a judgment of the Ernakulam Bench of this Tribunal and further to the same the Department of Posts has issued an order removing restriction of residence for appointment to such posts. Both these aspects were dealt with in detail while disposing of the earlier application O.A.No.662/93. As to Subramanya Bhatta being

not a resident of the village we found that he was a resident of the hamlet of the village and, therefore, he could not be treated as non-resident of the village. This is what we observed therein--

"4. Going back to the rejection of the applicant's claim resting principally on the ground that he is a resident of the hamlet of Aralasurali and not the resident of Aralasurali village proper, we need hardly emphasise the man was the resident of a hamlet which is an annexe of the village of Aralasurali and is therefore actually a resident of the village itself. Therefore, on the ground of nativity, the applicant could not have been discarded from consideration."

Continuing further we went on to consider the other aspect as follows:

"....The other aspect of the matter is whether Smt. Kamalakumari could have triumphed over Sri Bhatta on the ground that she had higher marks average, per se the ground is of course tenable. But, then the notification inviting applications for filling up the vacancy made reference to one particular qualification namely experience in the postal department as one of the requirements. It was beyond dispute that the applicant had adequate experience acquired in the service of the postal department having worked as EDDA from 1971 vis-a-vis Smt. Kamalakumari who was a first timer and that is not in dispute. If all the relevant inputs were taken together and the claim of each of them viz., Sri Bhatta and Smt. Kamalakumari is weighed it may well be the balance would swing in Mr. Bhatta's favour. But, what the injustice done to Bhatta is in discarding him at the start itself by treating him as an outsider and not as insider, as resident of a hamlet of Aralasurali which we have pointed out in an erroneous assumption. In residential qualification if Mr. Bhatta is equal to Kamalakumari, then having had more experience of working in the postal department as against Kamalakumari who was a total fresher, whether in such circumstances Smt. Kamalakumari's claim could have been accepted merely on the ground of higher marks than Sri Bhatta who appeared to have scored 353 as against the total marks of 393 obtained by Smt. Kamalakumari, a relevant aspect which necessarily calls for attention. We, therefore,



think the selection of Smt. Kamalakumari and the non-selection of the applicant is vitiated by taking into consideration irrelevant and totally wrong inputs with the result it will have to be redone again."

What becomes apparent from the above is the contention that Shri Bhatta was not a resident of the village is set at rest by the finding recorded in the earlier OA and, therefore, we must reject the second contention of Shri Jois. Regarding the said aspect, we would also like to invite the attention of the counsel for the applicant that the department has itself amended the rule regarding residence in the village and have set aside that requirement which is thus now extinct. The said amendment ^{was} _^ based on the judgment of Ernakulam Bench supra. Reverting to the first contention of Shri Jois that his client had higher marks in SS than Shri Bhatta, it is no doubt true and this aspect has already been noticed by us in the portion of the order extracted above. But nonetheless we directed the department to redo the selection taking into consideration the higher marks but weighing it against the experience factor that certainly tilted the scales in favour of appointing Shri Bhatta. Admittedly Kamalakumari is a fresher and Shri Bhatta had sufficient experience having worked for over 22 years as a Postman. The man did know something of the work of the Post Office and that is something Kamalakumari could not lay claim to. It cannot be said that past experience cannot be a guide in the matter of selection. Where both the candidates are equally qualified

educationwise both of them having passed SSLC and of course Kamalakumari was even one step better being a graduate but that cannot be a factor which should possibly influence the selection as apparently the department stipulated a minimum qualification of 8th standard but gave preference to an SSLC. In the circumstances Kamalakumari being a graduate could not weigh in her favour and that is what we have also noticed in the earlier OA. The position is both of them had passed SSLC and probably Kamalakumari may have scored more marks but Shri Bhatta had invaluable work experience which could not be ignored. Shri Jois submits that rules did not stipulate taking into consideration the work experience. May be it is so but it is also not stated that SSLC Marks should be the criteria. We do agree that if everything was equal and the selection had to be made between two persons with similar qualification, then of course person with higher marks would undoubtedly qualify for selection vis-a-vis the person with the lower marks. But that situation does not arise here in view of the fact that the appointee Bhatta had plenty of work experience apropos the applicant Kamalakumari who was a total fresher. In the circumstances we see nothing wrong in the department selecting an experienced candidate for the job. In that view of **TRUE COPY** the matter the appointment of the 3rd respondent is not vitiated for any reason and it does not suffer from any infirmity. This application, therefore, Central Administrative Tribunal and is dismissed. No costs.

S. S. S. S. S.
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

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MEMBER [A]

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VICE-CHAIRMAN