

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/01075/2014

Tuesday, this the 13th day of November, 2018

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

1. Babu Puthanpurayil,
S/o.Chathu,
Postman Chombala Post Office,
Puthanpurayil House, Perode PO,
Nadapuram, Vadakara 673 504.
2. Babu.K.,
S/o.Kanaran,
Postman Iringal Post Office,
Residing at Kuyyandathil House,
Puduppanam P.O., Vadakara – 673 105.
3. K.Venugopalan,
S/o.Kunhikrishna Marar,
Departmental Stamp Vendor,
Vadakara Head Post Office,
Residing at Kappana House, Kilur PO,
Payyoli, Vadakara – 673 522.Applicants

(By Advocate – Ms.R.Jagada Bai)

v e r s u s

1. Director General (Posts),
Dak Bhavan, New Delhi – 110 001.
2. The Chief Post Master General,
Kerala Circle, Trivandrum – 695 033.
3. The Post Master General,
Northern Region, Kerala Circle,
Kozhikode – 673 011.
4. The Superintendent of Post Offices,
Vatakara Division, Vatakara – 673 101.Respondents

(By Advocate – Mr.N.Anilkumar, SCGSC)

This application having been heard on 5th November 2018, the Tribunal on 13th November 2018 delivered the following :

ORDER

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/1075/2014 is filed by Shri.Babu Puthanpurayil, Shri.Babu.K and Shri.K.Venugopalan. The first two applicants are Postmen at Chombala Post Office and Iringal Post Office respectively and the third applicant is a Departmental Stamp Vendor at Vadakara Head Post Office. The reliefs sought in the O.A are as follows :

1. Call for the records regarding the promotion to the cadre of Postal Assistants in Vatakara Postal Division for the year 2010 and 2011.
2. Declare that the applicants are eligible to be appointed against the vacancy of Postal Assistant in Vatakara Postal Division arisen out of promotion of Sri.K.Pradeep Kumar against the vacancies for the year 2011 according to their merit.
3. To issue such other appropriate orders or directions this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case.
4. Grant costs to the applicant.

2. The applicants while functioning as Postman/Departmental Stamp Vendor appeared for the examination for promotion to the cadre of Postal Assistants notified by communication dated 20.7.2011, a copy of which is at Annexure A-1. There were two vacancies under unreserved quota in Vadakara Postal Division and the applicants took the examination on 16.10.2011. As per results of the examination published vide Respondent No.4 letter dated 10.2.2012 (Annexure A-2) two candidates, namely, Shri.Pradeep Kumar.K and Shri.Haridasan.M.P., were declared to have qualified in the examination. While this process was going on

O.A.No.1087/2011 filed by Shri.Pradeep Kumar K claiming promotion to the cadre of Postal Assistant against the vacancy for the year 2010 was pending before this Tribunal.

3. Annexure A-3, Annexure A-4 and Annexure A-5 are information obtained by the applicants under RTI Act relating to the recruitment. From this it is seen that the following marks were obtained by the three applicants :

Name of the Applicant	Marks obtained in each paper		Total marks
	Paper-I	Paper-II	
Babu Puthenpurayil	60	46	106
Babu.K.P.	52	46	98
K.Venugopalan	60	46	106

4. O.A.No.1087/2011 filed by Shri.Pradeep Kumar K was disposed of by the Tribunal directing the respondents to evaluate his answer sheets for the examination conducted for promotion to the cadre of Postal Assistants for the vacancies for 2010. Accordingly the answer sheets of the individual were re-evaluated and he was declared as selected against a vacancy earmarked for 2010 as per Annexure A-7. Through this development Shri.Pradeep Kumar K who was ranked No.1 among the two selected candidates for the 2011 vacancies, came to be adjusted against a 2010 vacancy on notional basis. As soon as this development came to their notice the applicants filed representations on 29.9.2014 (Annexure A-9, Annexure A-10 and Annexure A-11) seeking to be adjusted against the resultant vacancy of Shri.Pradeep Kumar K. Their logic was that one vacancy out of two meant for unreserved candidates had now become

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vacant due to Shri.Pradeep Kumar K being adjusted against 2010 vacancy. The applicants allege that their claim was not favourably considered. It is further maintained that one undeserving candidate, who would have been displaced by Shri.Pradeep Kumar K being allotted to 2010 vacancy, continued in service. The authorities allowed this while denying the claim of the applicants for the resultant vacancies of 2011, the applicants allege.

5. The respondents have filed a reply statement wherein they have denied the claim of the applicants. While admitting that there were originally two vacancies for 2011 which were duly notified by Annexure A-1 notification, Shri.Pradeep Kumar K who had successfully challenged his exclusion in the 2010 selection and got the benefit of re-evaluation of his papers, was adjusted against a 2010 vacancy. However, this has been done only on notional basis and no fresh vacancy arose in 2011 as claimed by the applicants. Shri.Pradeep Kumar K was only notionally regularized with effect from 25.3.2011 against 2010 vacancies and was placed just above the candidate who was declared passed in the LGO examination held on 10.10.2010.

6. In the rejoinder filed by the applicants, although not connected strictly to the claim of the applicants, it is maintained that a promotee in the list of 2010, in excess to the notified vacancies consequent to the elevation of Shri.Pradeep Kumar K, was retained. Further it is stated that there were four vacancies in existence for the year 2011 when only two were notified.

7. In the additional reply statement filed by the respondents further information is offered that there were three general vacancies for 2010 and out of these three only one was filled up. Among the two vacancies that remained unfilled, one vacancy was identified as surplus/deficient and taken up for abolition. The remaining one vacancy was offered to GDS along with the PA/SA vacancies for the year 2011 and 2012. Originally one Shri.Sreenil.K.P was selected and posted against one of the three general vacancies for the year 2010 as Shri.Pradeep Kumar K was only notionally regularized and placed above Shri.Sreenil.K.P. The view taken was that there was no vacancy which arose consequent to the notional placement granted to Shri.Pradeep Kumar K.

8. Heard Smt.R.Jagada Bai, learned counsel for the applicant and Shri.N.Anilkumar, learned SCGSC for the respondents. Smt.R.Jagada Bai, learned counsel for the applicant based her argument on the claim that as a result of Shri.Pradeep Kumar K being elevated to the vacancy of the year 2010 there is one further vacancy which has arisen in 2011 for which the applicants' claim ought to be considered. We do not see this as a valid argument and are inclined to favour the stand that there has been no slot created in 2011 as Shri.Pradeep Kumar K been moved upwards only notionally. Learned counsel for the applicant's second claim was with regard to more number of vacancies being available than those notified. We have examined the Registers of Sanctioned Establishment of Koyilandi and Vadakara H.Os. From these Registers there is nothing to indicate that there are more vacancies than notified. Even assuming there were, the claim of

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the applicants to those posts are non-existent. All three applicants had fallen short of making the grade in the selection they participated in and their marks are available through RTI. And, it is not known whether they are the only claimants for any additional vacancy, if it existed. Apart from this no Government Department can be forced to fill up all vacancies at a given point of time. This is a part of executive decision making and does not warrant judicial interference.

9. Based on these facts, we are of the view that the O.A lacks merit and accordingly we dismiss the same. No costs.

(Dated this the 13th day of November 2018)

**ASHISH KALIA
JUDICIAL MEMBER**

**E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A.No.180/01075/2014

1. **Annexure A1** – True copy of the Superintendent of Post Office, Vatakara Division (Respondent No.4) letter No.B1/63/Exam/2011 dated 20.7.2011.
2. **Annexure A2** – True copy of the Superintendent of Post Offices, Vatakara letter No.B1/63/Exam/2011 dated 10.2.2012.
3. **Annexure A3** – True copy of the Central Public Information Officer, Kerala Postal Circle, Trivandrum vide letter No.Rectt/33-20/04/2012 dated 13.3.2012.
4. **Annexure A4** – True copy of the Central Public Information Officer, Kerala Postal Circle, Trivandrum vide letter No.Rectt/33-20/02/2012 dated 27.4.2012.
5. **Annexure A5** – True copy of the Central Public Information Officer, Kerala Postal Circle, Trivandrum vide letter No.Rectt/33-20/15/2012 dated 9.4.2012.
6. **Annexure A6** – True copy of the order of this Hon'ble Tribunal in Original Application No.1087/2011 filed by Sri.Pradeep Kumar K, Postman, dated 16.8.2013.
7. **Annexure A7** – True copy of the Superintendent of Post Offices, Vatakara Division, Vatakara Memo No.OA1087/2011 dated 5.3.2014.
8. **Annexure A8** – True copy of the Superintendent of Post Offices, Vatakara Division, Vatakara letter No.L/RTI/Dlgs/140/13-14 dated 24.2.2014.
9. **Annexure A9** – True copy of the representation dated 29.9.2014 submitted by the Applicant No.1.
10. **Annexure A10** - True copy of the representation dated 29.9.2014 submitted by the Applicant No.2.
11. **Annexure A11** - True copy of the representation dated 29.9.2014 submitted by the Applicant No.3.
12. **Annexure A12** - True copy of the order issued by the Superintendent of Post Offices, Vatakara Division under No.B1/226/Dlg dated 28.11.2014.
