

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00608/2018

Tuesday, this the 23rd day of October, 2018

CORAM:

Hon'ble Mrs. P. Gopinath, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Leelamma Joseph, aged 50 years, W/o. Varghese, Working as Postman,
 Nedukandam, Idukki Division, Thodupuzha, residing at Kuzhippallil House,
 Nedukandam. **Applicant**

(By Advocate : Mr. Martin G. Thottan)

V e r s u s

1. Union of India, represented by the Secretary,
 Government of India, Ministry of Communications,
 Department of Posts, New Delhi – 110 001.
2. The Chief Postmaster General, Kerala Circle,
 Thiruvananthapuram – 695 033.
3. Superintendent of Posts, Idukki Division,
 Thodupuzha – 685 581. **Respondents**

(By Advocate : Mr. N. Anilkumar, SCGSC)

This application having been heard on 15.10.2018 the Tribunal on
 23.10.2018 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicants are as under:

“I) Declare that the applicant is entitled to be considered for promotion to the post of Postal/Sorting Assistant in pursuant to Annexure A1 notification on par with her juniors with all consequential benefits and direct the respondents accordingly.

II) Award costs of and incidental to this application.

VI) Grant such other relief, which this Honourable Tribunal may deem fit

and proper in the circumstances of the case.”

2. The applicant is presently working as Postman at Nedumkandam Post Office which comes within the Idukki Postal Division. He seeks for a declaration that he is entitled to be considered for promotion to the post of Postal Assistant, the post which left vacant on par with others who participated in the selection along with the applicant. The applicant who was successful in the selection was not considered for promotion in view of the interim order passed by this Tribunal in OA No. 180/600/2016 to keep one post of Postal Assistant vacant. Ultimately the OA has been dismissed by this Tribunal.

3. Notices were issued to the respondents. They entered appearance through Shri N. Anilkumar, SCGSC. They contended that one candidate who has applied for the said examination Smt. Molly George approached this Tribunal by filing OA No. 180/600/2016 aggrieved by the rejection of her candidature. As per the interim order she was provisionally admitted to appear in the examination held on 31.7.2016. After declaration of results the following 9 candidates were selected for promotion to the cadre of Postal Assistant in Idukki as per their merit in the exam:

| Sl. No. | Name of the candidate | Category | Roll No. | Marks obtained |
|---------|-----------------------|----------|------------------------|----------------|
| 1 | Roy P.K. | UR | 20005 | 132 |
| 2 | Rajmohan M.M. | UR | 20011 | 118 |
| 3 | Molly George | UR | Withheld (OA 600/2016) | |
| 4 | Chakkappan M | UR | 20002 | 116 |
| 5 | Syri John | UR | 20017 | 110 |
| 6 | Anitha Ramakrishnan | UR | 20012 | 110 |

| | | | | |
|---|--------------------|----|-------|-----|
| 7 | Sindhy N.B. | UR | 20006 | 100 |
| 8 | Jayan K.R. | UR | 20009 | 96 |
| 9 | H. Jayanthi Amutha | UR | 2007 | 96 |

It is further submitted the OA No. 180/660/2016 was dismissed by order dated 19.12.2017 therein as the applicant therein was not found eligible to appear in the examination and Smt. Molly George has filed an appeal before the Hon'ble High Court against the order of this Tribunal in OA No. 180/660/2016.

4. A rejoinder has been filed by the applicant reiterating the averments contained in the OA.

5. Heard Shri Martin G. Thottan, learned counsel appearing for the applicant and Mr. N. Anilkumar, SCGSC learned counsel appearing for the respondents. Perused the records.

6. During the course of arguments Mr. Martin G. Thottan has drawn our attention to Annexure A2/2 wherein against the name of Molly K. George who was at serial No. 3 it was shown as OA 600/16 Pending. She has been ousted from the said list and now total number of 8 candidates are there for the post of Postal Assistant. The applicant's counsel has further drawn our attention to the marks obtained by the applicant in the result disclosed by the respondents. According to this applicant has got 92 marks and could be considered as the 9th candidate in the said list. This position has not been disputed by the counsel appearing for the respondents but he has submitted

that since OP (CAT) is pending they are awaiting for the result of the same.

7. We are of the considered view that unless and until the order is stayed by the superior court i.e. the Hon'ble High Court of Kerala the respondents are bound to follow the judgment passed by this Tribunal more particularly when the candidature of the applicant in OA No. 180/600/2016 was rejected solely on the decision of the apex court in the matter of *Y. Najithamol & Ors. v. Soumya S.D. & Ors.* in Civil Appeal No. 90 of 2015 dated 12th August, 2016, wherein the apex court held that the selection of extra departmental agents or Gramin Dak Sevaks to the post of Postman under Column 11(2)(ii) of the Recruitment Rules is only by way of direct recruitment and not by way of promotion.

8. Thus, we find that the applicant is eligible to be considered for promotion notionally, both based on availability of post and merit, to the post of Postal/Sorting Assistant in pursuant to Annexure A1 notification on par with her juniors. The promotion will be on notional basis with effect from the date of notional promotion at par with immediate junior and this will count for consequential benefits including fixation of pay and seniority. The applicant is covered by the principle of “no work no pay” as regards non-entitlement of arrears for the period covering notional promotion i.e. up to the date the applicant actually taken charge of post. Accordingly, we direct that the applicant is eligible to be considered for promotion to the post of Postal/Sorting Assistant being qualified in the examination and finding name in the merit list and also as one vacancy is still available to be

filled in view of the 3rd candidate Ms. Molly K. George being ousted from the list. The respondents shall pass necessary orders within two months from the date of receipt of a copy of this order.

9. With the above observation and direction, the O.A. is allowed. Parties are directed to bear their own costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(P. GOPINATH)
ADMINISTRATIVE MEMBER**

“SA”

Original Application No. 180/00608/2018**APPLICANT'S ANNEXURES**

Annexure A1 – True copy of the notification NO. Recct/10-3/2016/I dated 17.6.2016 issued by the second respondent.

Annexure A2 – True copy of result of LGO examination held on 31.7.2016 in Idukki Division.

Annexure A3 – True copy of the representation submitted by the applicant to the third respondent.

Annexure A4 – True copy of the reply given the Central Public Information Officer dated 7.2.2017 & 27.2.2017.

RESPONDENTS' ANNEXURES

Nil

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