

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00946/2015

Tuesday, this the 1st day of October, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

S. Mahalakshmi, W/o. Vijaya Kumar, aged 41 years,
 Part Time Casual Labourer, Kollam Taluk Cutchery/Kollam Bazar,
 residing at Vinayaka Bhavanam, Kaleekal Kadapuram, Mundakkal East,
 Kollam – 691 001. **Applicant**

(By Advocate : Mr. V. Sajith Kumar)

V e r s u s

1. Union of India, represented by Secretary to Government, Department of Posts, Ministry of Communications, Government of India, New Delhi – 110 001.
2. The Chief Postmaster General, Kerala Circle, Trivandrum-695 033.
3. The Sr. Superintendent of Post Offices, Kollam Postal Division, Kollam – 691 001.
4. The Inspector of Post, Kollam North Sub Division, TKM College PO-691 005. **Respondents**

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

This application having been heard on 23.09.2019 the Tribunal on 01.10.2019 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“(i) To direct the respondent to consider the applicant for the post of MTS set apart for casual labourer under Kollam Postal, Division and to appoint her as MTS with all consequential benefits as expeditiously as possible.

(ii) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and

(iii) Grant the cost of this Original Application.”

2. The brief facts of the case are that the applicant is working as a part time casual mazdoor under the 3rd respondent with effect from June, 1991. She was later given additional work at Kollam Taluk Cutchery Post Office also. Applicant is placed at serial No. 51 in the register of contingent employees of Kollam Postal Division with total working hours of 4 hours 29 minutes. The daily wagers working in post offices under different designations are treated as casual mazdoor as per the orders of the 1st respondent. Seeking combination of duties to get the full time casual labourer, the applicant filed OA No. 66 of 2014 which was allowed by holding that the applicant is a casual mazdoor and feasibility of combination of duties to grant full time casual labourer need to be worked out. The appeal filed by the respondents against the above order of the Tribunal before the Hon'ble High Court in OP (CAT) No. 176/2015 was dismissed vide judgment dated 2.11.2015. The appointment to the cadre of MTS is governed by 2010 Recruitment Rules as amended from time to time. As per the said Rules 25% of vacancies are liable to be filled from full time casual labourer and in the absence of full time casual labourer the vacancy need to be offered to a part time casual labourer. The department had offered one vacancy of casual mazdoor to Smt. R. Radhamani a full time casual labourer. However, she refused to accept employment and sought a post against the vacancy in RMS by representation dated 6.10.2015. The said

request was rejected by the respondents and the Department issued order to obtain unwillingness from Smt. Radhamani. Smt. Radhamani expressed her unwillingness to accept the employment. The applicant being the next eligible candidate as per the Recruitment Rules submitted Annexure A8 representation. However, the respondents did not pay any heed to the same. Aggrieved the applicant has filed the present OA.

3. Notices were issued to the respondents and Mr. N. Anilkumar, SCGSC took notice on behalf of the respondents and filed a reply statement contending that the contention of the applicant that Smt. Radhamani had declined the offer of appointment is not correct. The DPC which was convened on 28.9.2015 recommended the lone full time casual labourer in the Division Smt. Radhamani for appointment to the cadre of MTS against the 25% quota earmarked for casual labourers. Initially Smt. Radhamani did not join the post citing some personal inconvenience. Smt. Radhamani had not declined the offer unconditionally and had only represented that she could not join the post for the time being. Vide Annexure R2 Smt. Radhamani has requested to permit her to join as MTS, Kollam HO and she joined as MTS, Kollam HO on 16.4.2016 afternoon. Therefore, the applicant has no cause of grievance. Moreover, in compliance of Annexure A4 order of this Tribunal, the applicant was engaged as a GDSMP, Kollam Bazar and hence the applicant's present status is a Gramin Dak Sevak and she is not entitled to be considered against the 25% quota for casual labourers by any stretch of imagination. Respondents pray for dismissing the OA.

4. Heard Mr. V. Sajith Kumar, learned counsel appearing for the applicant and Mr. N. Anilkumar, SCGSC learned counsel appearing for the respondents. Perused the record.

5. The basic contention of the applicant is that the respondents had offered one vacancy of MTS post to Smt. R. Radhamani a full time casual labourer. However, she refused to accept the employment and sought a post against the vacancy in RMS by her representation dated 6.10.2015. As contended by the applicant, the said request of Smt. R. Radhamani was rejected by the respondents and the Department issued an order to obtain unwillingness from Smt. R. Radhamani. Smt. R. Radhamani expressed her unwillingness to accept the employment. Therefore, the applicant submits that she being the next eligible candidate against the 25% quota earmarked for casual labourers is entitled for appointment as MTS as per the Recruitment Rules. This position has been clarified by the respondents in the reply statement contending that Smt. R. Radhamani had not declined the offer unconditionally but shown her inability to join the post for the time being. Later vide Annexure R2 Smt. Radhamani has requested to permit her to join as MTS, Kollam HO and she joined as MTS, Kollam HO on 16.4.2016. Therefore, now the applicant has no cause of grievance.

6. We are in agreement with the contention of the respondents, as the entire case of the applicant is based upon the fact that she should have been considered by the respondents for the post of MTS in case Smt. R.

Radhamani refused to join the post. But that is not the case over here. Smt. R. Radhamani had requested only to accommodate her to join at Kollam HO after some time which was acceded to by the respondents and accordingly, she joined the post of MTS on 16.4.2016. Therefore, now there is no occasion for the applicant to claim the said post of MTS.

7. Hence, in view of the above, we hold that the OA lacks merit and the same is liable to be dismissed. Accordingly, the OA is dismissed. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00946/2015**APPLICANT'S ANNEXURES**

Annexure A1- True copy of the relevant pages of the contingent register of the Kollam Postal Division.

Annexure A2- Extract of the register kept at Kollam Talukacherry Post Office.

Annexure A3- True copy of the order No. 45-24/88-SPB-I dated 17.5.1989 issued by the 1st respondent.

Annexure A4- True copy of order dated 18.6.2015 in OA 66/2014 of the Central Administrative Tribunal, Ernakulam Bench.

Annexure A5- True copy of 2010 MTS Recruitment Rules by notification dated 12.12.2010.

Annexure A5(a)- True copy of 2015 Recruitment Rules dated 14.5.2015.

Annexure A6- True copy of the letter No. Bb/44/Rectt/2015 dated 28.9.2015 issued by the 3rd respondent.

Annexure A7- True copy of the letter No. CC/44/Rectt/2015 dated 20.10.2015 issued by the 3rd respondent.

Annexure A8- True copy of the representation dated 25.9.2015 submitted by the applicant before the 3rd respondent.

Annexure A9- True copy of the judgment dated 2.11.2015 in OP (CAT) No. 176/2015 of the Hon'ble High Court.

Annexure A10- True copy of the letter dated 24.5.2016 along with order dated 1.4.2016 issued by the 2nd respondent.

Annexure A11- True copy of the order dated 18.4.2016 issued by the Inspector of Post.

Annexure A12- True copy of the order NO. 37-15/2001-SPB-I(Vol.II) dated 20.6.2003 issued by the 1st respondent to the 2nd respondent.

RESPONDENTS' ANNEXURES

Annexure R1- True copy of the representation dated 26.10.2015 submitted by Smt. Radhamani.

Annexure R1(a)-True copy of the English translation of representation dated 26.10.2015.

Annexure R2- True copy of the representation dated 4.3.2016.

Annexure R2(a)-True copy of the English translation of representation dated 4.3.2016.

Annexure R3- True copy of the order No. GDSMP/Kollam Bazar dated 16.3.2016.

Annexure R4- True copy of the charge report of Smt. S. Mahalakshmi.

Annexure R5- True copy of the charge report of Smt. Radhamani.

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