

**Central Administrative Tribunal
Ernakulam Bench**

OA/180/00065/2016

Thursday, this the 1st day of August, 2019

CORAM

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

M.K.Balakrishnan, aged 45 years
S/o.M.Narayanan nair, MTS
Ottapalam HO
Ottapalam Division, 679 101, residing at
'Madath Koortha Valappil' Kudallur PO
Palghat District 679 554

..Applicant

(By Advocate Mr.Shafik M.A)

Vs.

1. The Chief Postmaster General
Kerala Circle, Trivandrum 695 033
2. The Postmaster General
Northern Region
Kozhikode-673 011
3. The Superintendent of Post Offices
Ottapalam Division, Ottapalam 679 101

.... **Respondents**

(By Advocate Mr.A.S.Brijesh,ACGSC)

This OA having been heard on 1st August, 2019, the Tribunal delivered the following order on the same day.

ORDER (ORAL)

Per: Mr.E.K.Bharat Bhushan, Administrative Member

The applicant, while working as GDSMP, had passed the examination for promotion as MTS for the vacancies of the year 2012 as per

Annexure A-3 in July 2013. However, on account of the fact that he was issued with a Charge Sheet alleging violation of Rule 21 of Gramin Dak Sevaks (Conduct and Engagement) Rules 2011, two months later, the promotion was kept in abeyance. In the background of the subsequent Inquiry having found him not guilty as per Annexure A-8 dated 17.12.201, the applicant is pressing his claim for being appointed as per selection announced in Annexure A-3 ie, in July 2013. On account of the fact that he had been appointed only in March 2015 and joined with effect from 1.4.2015, he was not considered eligible by the respondents to appear for the examination conducted on 9.12.2018.

2. At the sitting on 6.12.2018, we had allowed the applicant to participate in the examination scheduled on 9.12.2018 provisionally subject to the final outcome in the Original Application. Mr.A.S.Brijesh,ACGSC, learned counsel for the respondents today produced the result of the examination, by which the applicant was ranked as No.3 while only two vacancies were to be filled up. Hence, the applicant was not eligible for promotion as Postal Assistant.

3. However, his main grievance with regard to pre-dating his appointment from July 2013 remains. In the brief impugned order at Annexure A-1, the only reasoning presented by the respondents in denying the request of the applicant is “there are no codal provisions for considering the official's request.”. And further, there is no reference to this particular issue in the reply statement filed by the respondents.

4. After hearing both sides, we allow the Original Application in respect of allowing the applicant's appointment as MTS from July 2013 based on his selection as per Annexure A-3. He will be entitled to all consequential benefits including arrears of salary which will essentially mean the difference of salary between GDS and MTS categories and he is also to be placed in the seniority list of MTS in the correct position among the recruits of 2013 vacancies. This shall be done as early as possible at any rate within two months from the date of receipt of a copy of this order.

5. The Original Application is allowed as above. No costs.

6. In view of the above order, MA/180/673/2019 is closed.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures

Annexure A-1 - True copy of the letter No.Staff/23/Dlg/2015 dated 27.5.2015 issued by the AD(Staff) of the 2nd respondent

Annexure A-2 - True copy of the letter No.B2/4/Rectt dated 29.5.2015 issued by the 3rd respondent

Annexure A-3 - True copy of the Memo No.B2/4/Rectt/2012 dated 4.7.2013 issued by the 3rd respondent

Annexure A-4 - True copy of the Memo No.ADA/PTB/01/2013-14 dated 2.8.2013 issued by the Asst.Superintendent of Post Office.

Annexure A-5 - True copy of the representation dated 24.9.2013 submitted before the 2nd respondent

Annexure A-6 - True copy of the representation dated 7.4.2014 submitted before the 1st respondent

Annexure A-7 - True copy of the report No.PM/IA/2/2013 dated 17.12.2014 of the Inquiry Officer

Annexure A-8 - True copy of the Memo No.ADA/PTB/01/2013-14 dated 9.2.2015 of the ASP, Pattambi Division

Annexure A-9 - True copy of the representation dated 13.2.2015 submitted before the 3rd respondent

Annexure A-10 - True copy of the Memo No.B2/4/Rectt/2012 dated 27.3.2015 issued by the 3rd respondent

Annexure A-11 - True copy of the order No.PF/MKB dated 30.3.2015 issued by the Postmaster, Ottapalam

Annexure A-12 - True copy of the representation dated 17.4.2015 submitted before the 3rd respondent

Annexure A-13 - True copy of the seniority list of Gr.D officials of Ottapalam Division

Annexure R-1 - True copy of the Bias Petition filed by the applicant

Annexure R-2 - True copy of Memo of the reviewing authority Superintendent of Post Offices, Ottapalam Memo No.F1/03/III/2011-12 dated 14.3.2014

Annexure R-3 - True copy of judgement in O.A No.1088/2014 of this Tribunal

Annexure R-4 - True copy of Memo No.CAT/Ajithkumar/Kallamala/dated 19.2.2015 issued by 3rd respondent

Annexure R-5 - True copy of letter forwarding Annexure A-12 representation

Annexure R-6 - True copy of intimation forwarded to Postmaster General, Kozhikode vide letter No.B2/04/Rectt/2012 dated 28.4.2015

Annexure R-7 - True copy of order of Postmaster General, Kozhikode communicated vide letter No.Staff/23/Dlgs dated 27.5.2015

Annexure R-8 - True copy of the letter No.F1/03/VII/2012-2013 dated Ottapalam:1 the 15.5.2013 issued by the 3rd respondent instructing to initiate Rule:10 Inquiry against the applicant

Annexure R-9 - True copy of the transfer note dated 3.7.2013 transferring charge of Pattambi Sub Division by Asst. Superintendent of Post Offices, Pattambi

Annexure R-10 - True copy of the Judgment in Civil Appeal No.91/2015 filed by Najithamol.Y and others before the Hon'ble Supreme Court of India

Annexure R-11 - True copy of the judgment in OP(CAT) No.327/2016 filed by Smt.Indukala C.S and others

Annexure M.A-1 - True copy of the letter No.Rectt/10-3/2018 dated 30.10.2018 issued by the AD(Estt&Rectt) of the 1st respondent

Annexure M.A-2 - True copy of the letter No.B1/6/6LGO 2018 dated 14.11.2018 issued by the 3rd respondent

Annexure M.A-3 - True copy of the letter No.B1/6/LGO 2018 dated 3.12.2018 issued by the 3rd respondent .
