

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00219/2017

Wednesday, this the 30th day of October, 2019.

CORAM

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

Hon'ble Mr.Ashish Kalia, Judicial Member

Prakash M.P., aged 29 years
S/o Manoharan Nair,
Gramin Dak Sevak Mail Deliverer,
Vilappilsala BO., Peyad SO, Thiruvananthapuram-695 573.
Residing at "Manikanda Vilasom",
Alaithy, Puliarakkonam BO,
Peyad SO, Thiruvananthapuram-695 573.

Applicant

(Advocate: Mr.B.Harish Kumar rep by Ms.Shobha Kurian)

versus

1. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram-695 033.
2. The Senior Superintendent of Posts,
Postal Department, South Division,
Thiruvananthapuram-695 036.
3. The Assistant Superintendent of Posts,
Postal Department, East Sub Division,
Thiruvananthapuram-695 036.

Respondents

(Advocate: Sri N.Anilkumar, SCGSC)

The OA having been heard on 29th October, 2019, this Tribunal delivered the following order on 30.10.2019:

ORDER

By E.K.Bharat Bhushan, Administrative Member

This OA is filed by Sri Prakash M.P., Gramin Dak Sevak Mail Deliverer (GDSMD), Vilappilsala Branch Office, Thiruvananthapuram. He had been

engaged as a substitute in the post from June, 2008 onwards and had been working on different spells as substitute and outside worker from that date at Vilappilsala BO. When the third respondent notified recruitment for the post of GDSMD from eligible candidates, the applicant had also applied for the post. But he was not selected for the reason that he had lower marks in SSLC examination. However, the six persons who were selected and who came to occupy the post for short periods, relinquished the charge, one by one. Reason for this appears to have been the fact that the post office is situated close to the Vilappilsala Garbage Disposal Plant.

2. When the third respondent again notified the post, the applicant submitted an application and also filed OA 426 of 2016 which was disposed of on 27.5.2016 with the following order:-

“3. Hence, the respondents are directed to consider the application of the applicant, who is willing to work despite the adverse circumstances, along with others and in view of the specific adverse conditions of the area Post Office and the willingness of the applicant to work despite the adverse conditions. His application may not be rejected on the ground of not possessing the higher qualifying marks criteria. This is subject to any other willing candidate with higher marks being available to take appointment to the post. Ordered accordingly”.

3. The respondents did not proceed further with the selection and the applicant was permitted to continue working as GDSMD. He claims to have completed 240 days of duty in the year 2016. He is aggrieved by the fact that despite obtaining the direction of this Tribunal, no efforts have been made to employ him on regular basis in the existing vacancy as GDSMD giving him preference on the basis of the service put in as a substitute/outsider. He prays for the same through this OA.

4. Respondents have replied to the contentions of the applicant stating that the direction of this Tribunal was to consider the applicant for the post, provided, no other willing candidate with higher marks comes forward to take appointment. It is averred in the reply statement that the applicant was never engaged as a casual labourer and was only employed as a substitute against absentees.

5. Heard Ms.Shobha Kurian, counsel on behalf of Sri B.Harish Kumar for the applicant and the Standing Counsel for the respondents.

6. The applicant is currently continuing in his post on the basis of the interim direction issued by this Tribunal on 21.3.2017. From the proceedings before us, we have no information that the respondents have initiated any steps for regular posting, threatening the applicant's continuance. Under the circumstances, all that remains for this Tribunal to do is to reiterate the orders issued by this Tribunal in OA 426/2016, copy of which is available at Annexure A1. In the event of future selection, the applicant may apply for the same if he so chooses. His application is not to be rejected on the ground that he does not possess higher qualifying marks criteria. However, the direction will be subject to the condition that no other willing candidate with higher marks is available to take appointment to the post. OA is accordingly disposed of.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

Annexures filed by the applicant:

Annexure A1: Copy of the order dated 27.5.2016 passed by this Tribunal
Annexure A2: Copy of the acquaintance roll of the applicant for the year 2016.
Annexure A3: Copy of the above D.G.Posts letter dated 6.6.1988.
Annexure A4: Copy of the letter dated 31.3.1992.
Annexure A5: Copy of the judgment dated 26.3.2007 passed by the Hon'ble High Court.

Annexure filed by the respondents:

Annexure R1: Copy of the letter No.17-115/2001-GDS dated 21.10.2002.