

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR  
&  
THE HONOURABLE MR. JUSTICE K.SURENDRA MOHAN**

**TUESDAY, THE 31ST AUGUST 2010 / 9TH BHADRA 1932**

**WP(C).No. 26942 of 2010(S)**  
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**OA.614/2009 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH**  
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**PETITIONER(S):**  
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- 1. THE CHIEF POSTMASTER GENERAL,  
KERALA CIRCLE, THIRUVANANTHAPURAM.**
- 2. THE SUPERINTENDENT OF POST OFFICES,  
IDUKKI DIVISION, THODUPUZHA.**
- 3. THE UNION OF INDIA, REPRESENTED BY  
SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF  
COMMUNICATIONS, DEPARTMENT OF POSTS, NEW DELHI.**
- 4. THE DIRECTOR OF GENERAL OF POSTS,  
DEPARTMENT OF POSTS, DAK BHAVAN, NEW DELHI.**

**BY ADV. SRI.S.KRISHNAMOORTHY, CGC**

**RESPONDENT(S):**  
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**T.N.MOLLYKUTTY, W/O. SUNILKUMAR,  
WORKING AS POSTMAN, KATTAPPANA SOUTH P.O.,  
RESIDING AT 'SREENILAYAM HOUSE',  
KATTAPPANA SOUTH P.O., IDUKKI DISTRICT,  
PIN-685 515.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 31/08/2010, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**Kss**

**C.N.RAMACHANDRAN NAIR &  
K. SURENDRA MOHAN, JJ.**

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**W.P(C) NO: 26942 OF 2010 S**  
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**Dated this the 31<sup>st</sup> August, 2010.**

**JUDGMENT**

Ramachandran Nair, J.

Writ petition is filed by the Chief Postmaster General challenging the orders issued by the Central Administrative Tribunal on an application filed by a postman who failed in the examination for selection to the post of Postal Assistant.

2. The facts leading to the controversy are the following. According to the appellants, respondent participated in the examination for departmental promotion from the post of Postman to the post of Postal Assistant several times and failed. However, in the last attempt when she failed she obtained the answer book after making application under the Right to Information Act, 2005. Producing the question paper and the answer paper obtained from the department the respondent contended before the Central Administrative Tribunal that she was denied any marks for question No:6 which was correctly answered, though the steps taken to arrive at the correct answer were not given fully. The Central Administrative Tribunal after evaluating

the marks awarded found on a similar mistake the respondent is awarded 50% of the marks for giving answer to question No:7. It is also noticed by the Central Administrative Tribunal that initially the examiner awarded full marks for question No:6 i.e 20. But later he cancelled it and did not give any mark to the respondent for the answer given to question No:6. The Central Administrative Tribunal felt that if same treatment was given in regard to the award of marks to other candidates in the examination respondent cannot have a grievance. However, since the examiner applied different standards for giving marks for similar answers to two questions the Central Administrative Tribunal felt that if other candidates were not given marks by the examiner for similarly answering question No:6, then the denial of any mark to the respondent for giving the correct answer though without giving the method of reading the answer is discrimination. Accordingly they have only directed comparison of the marks awarded to other candidates in relation to the respondent and if discrimination is there Central Administrative Tribunal directed the appellant to correct the same. We find no merit in the contention of the petitioners that revaluation is not permissible under the rules. In our view if injustice is done the Central Administrative Tribunal is

free to ignore the procedure and order correction of the irregularity or mistake on account of discrimination shown. It is also to be noted that the Central Administrative Tribunal was only enforcing the fundamental right of the respondent that is equal treatment among equals. We therefore find no merit in the writ petition. It is accordingly dismissed.

C.N.RAMACHANDRAN NAIR  
Judge

K. SURENDRA MOHAN  
Judge

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