

Central Administrative Tribunal, Principal Bench

Original Application No.642 of 2002

New Delhi, this the 9th day of July, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member(A)

Shri Bishamber Singh
s/o Shri Bhagwan Sahai
E.D.D.A. Sarai Post Office under
Buland Shahr Dn.
R/o Village Hirapur P.O. Nayagaon
Distt. Buland Shahr

.... Applicant

(By Advocate: Shri Sant Lal)

Versus

1. The Union of India, through
The Secretary
Ministry of Communications,
Deptt. of Posts,
Dak Bhawan, New Delhi-1

2. The Postmaster General
Agra Region, AGRA 282 001 U.P.

3. The Superintendent of Post Offices,
Buland Shahr Dn.
Buland Shahr-203001

.... Respondents

(By Advocate: Shri D.S. Mahendru)

O R D E R (ORAL)

By Hon'ble Mr. S.A.T. Rizvi, Member(A)

Applicant, an SC candidate, who is working as Extra Departmental Delivery Agent (EDDA) and was appointed as such on 1.1.76, is an aspirant for promotion to the post of Postman in accordance with the relevant recruitment rules as modified by notification dated 30.1.95 (page 30 of the paper book). Under the aforesaid modified rule which is reproduced below, 25% of the vacancies of Postman were required to be filled from amongst EDDAs with a minimum of 15 years of service on the basis of their seniority, failing which by the EDDAs on the basis of departmental examination:

2 "2(i) 25% of the vacancies of Postman shall be
filled up from amongst Extra Departmental

Agents with a minimum of 15 years of service on the basis of their seniority, failing which by the Extra Departmental Agents on the basis of departmental examination."

2. It appears that a departmental examination was held on 20.12.98 in accordance with the aforesaid 'failing which' clause in which the applicant had also participated. Three candidates were selected as a result of the aforesaid examination on 15.3.99. The applicant was not selected though he had secured 78% marks (117/150).

3. Aggrieved by his non-selection in the aforesaid examination, the applicant alongwith one Shri Badley Singh, filed OA No.1998/99 on 29.7.99. That OA was allowed on 2.11.2000. A writ petition filed by the Union of India against the aforesaid decision of this Tribunal was dismissed in limine by the High Court of Delhi on 26.2.2001. However, the respondents did not comply with the order passed by this Tribunal on 2.11.2000 and this led to filing of Contempt Petition No.321/2001. The aforesaid contempt petition was dropped and the applicant was given the liberty to assail such other fresh cause of action as might have arisen. The aforesaid order was passed on 14.12.2001. Hence the present OA.

4. It would appear that the respondents had brought three candidates on transfer from outside the Buland-Shahr Division to fill the vacancies which have arisen in that Division. All of them were transferred back to their respective divisions and, at the same time, the total number of vacancies available in Buland-Shahr Division were re-calculated by the respondents and orders

9

were issued appointing five candidates as Postman in Buland Shahr Division. Shri Badley Singh who was co-applicant with the present applicant in OA No.1998/99 was also appointed, but as stated the applicant was left out.

5. From the post-based roster made available on record, it would appear that 181 posts of Postman existed in Buland Shahr Division against which, in accordance with the formula, 17 were reserved for SC candidates, the percentage of reservation for SCs in U.P. was then 21%. The aforesaid roster shows the names of 17 candidates belonging to the SC community who stand appointed as Postman in Buland - Shahr Division. The applicant's case is that in utter disregard of the reservation policy, the respondents have shown in the aforesaid roster a number of SC candidates adjusted against reserved vacancies although they had qualified for appointment on their individual merit. According to the learned counsel appearing on behalf of the applicant, the number of such SC candidates is 12. Only 5 SC candidates shown in the aforesaid roster are the ones who have been appointed against reserved vacancies on the strength of the policy of reservation and not on the basis of their individual merit. Following this argument, the plea advanced by the learned counsel for applicant is that sufficient number of reserved posts are, in the circumstances, bound to be available, and this number is as ^{large} ~~much~~ as 12 against which the applicant's claim for appointment can and should be considered.

6. The learned counsel appearing on behalf of the

dv

10

respondents has asserted that in making appointments, the policy of reservation has been correctly followed and that no appointments against reserved vacancies have been made from out of SC candidates who had qualified on their individual merit. He has however desisted from making a categorical assertion about the figure of 12 contained in the applicant's assertion.

7. In the circumstances, we find it difficult to accept the general statement made by the learned counsel for the respondents and would be more inclined to accept the plea advanced by the learned counsel for the applicant that the respondents have, after all, made appointments against reserved vacancies from out of meritorious candidates belonging to the SC category. To this extent, it will be in order to infer that reserved posts do, in fact, exist and the applicant's claim can well be considered against one such post. The applicant has not qualified on the basis of his individual merit, yet he possesses sufficient merit inasmuch as he has scored 117 marks out of 150 which is only one less than the marks obtained by the last general candidate who stands selected.

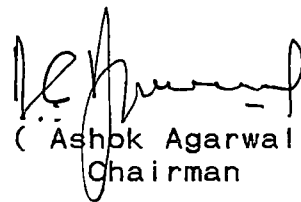
8. In the light of the foregoing, we find merit in the OA which is allowed with a direction to the respondents to consider the applicant's claim for appointment against a reserved post expeditiously and in any event within a period of three months from the date of receipt of a copy of this order. If and when the applicant is appointed as above, he will also be entitled to

2

consequential benefits in terms of notional seniority/pay fixation on the basis of his performance in 1998 examination. O.A. is allowed in the aforestated terms.



(S.A.T. Rizvi)
Member(A)



(Ashok Agarwal)
Chairman

/dkm/