

**Central Administrative Tribunal
Madras Bench**

OA/310/01935/2014

Dated the 21st day of February Two Thousand Twenty

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

Mr.B.Somasudaram,
S/o S.Balagurusamy,
No.38/36, Kailasanathapuram,
Devakottai 636 302,
Sivagangai District. .. Applicant
By Advocate **M/s.A.L.Ganthi Mathi**

Vs.

1. Union of India rep by its
Director General (Posts),
M/o Communications & Information Technology,
Department of Posts,
Sansad Marg,
New Delhi 110 001.
2. The Director of Postal Services,
O/o the Post Master general,
Southern Region,
Madurai 625 002.
3. The Superintendent of Post Offices,
Karaikudi Division, Karaikudi,
Sivagangai District.
4. The Assistant Superintendent of Post Offices,
Devakottai Sub Division,
Devakottai 636 302,
Sivagangai District. .. Respondents

By Advocate **Mr.G.Dhamodaran**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OA is filed seeking the following relief(s):-

“...to call for the records relating to the re-notification dated 26.11.2014 in Memo No.RIV/VGR/13 of the 4th respondent herein and quash the same and direct the 4th respondent to finalize the selection for the post of Gramin Dak Sevak Mail Deliverer Vengalure BO a/w Devakottai Extension SO on the basis of the earlier notification in Memo No.RIV/VGR/13 dated 12.10.2013 and give appointment to the applicant as Gramin Dak Sevak Mail Deliverer Vengalure BO a/w Devakottai Extension SO and pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. In short the applicant's case is that he belongs of OBC Category and he had applied for the post of GDS Mail Deliverer notified for Vangalure BO. He was fully qualified for the post. He was called on 10.1.2014. he was informed that he will be informed of the result later.
3. But nothing happened thereafter. He made a representation to Director of Postal Services on 10.9.14 seeking finalisation of list.
4. On 26.11.14 he came to know that the respondents had issued a fresh notification on 26.11.14 for the same vacancy stating that earlier notification was cancelled. According to the applicant, there is no valid reason for re-notification. He was expecting legitimately that he will be selected. The re-notification is arbitrary and illegal. This Tribunal on 18.12.14 had directed the respondents to keep one post

at Vengalure vacant until further orders.

5. The respondents appeared and filed a detailed reply. According to them, as per the earlier notification 5 candidates were short listed on the basis of marks obtained by them in the SSLC examination which is as follows:-

S. No.	Name of the Candidates	Marks	Remarks
1	A.Jeyajothi	386/500	
2	V.Suresh	220/500	Rejected. OBC certificate not enclosed with the application.
3	R.Suresh	208/500	Rejected. OBC certificate not enclosed with the application
4	K.Jegadeeswaran	207/500	
5	B.Somasundaram	193/500	

6. Out of the above candidates, Sl.Nos.2&3 were not called as they had not produced the OBC certificate. Sl.No.1,4&5 were called for certificate verification. Only Sl.No.1 & 5 alone appeared for certificate verification. It was found that Sl.No.1 had not prepared the application in her handwriting and she accepted the same and she was not considered. The 3rd respondent conducted an enquiry regarding the procedure adopted and it was found that Sl.No.2 Suresh had actually produced the OBC Certificate along with his application, but he happened to be excluded stating that he had not produced OBC Certificate. So, the 3rd respondent found that there had

happened some malpractices and he has directed to issue fresh notification for selection.

7. According to the respondents, the applicant was not at all selected and he had not accrued any vested right for appointment. It was due to the malpractices found, the notification was cancelled and a re-notification was issued. During further enquiry by vigilance, it was found that somebody had erased the entry in column regarding list of documents by using whitener and Sl.No.2 happened to be excluded. The applicant in this case was the last Sl.No.5 who had passed SSLC in 3 attempts and he obtained only 193 marks out of 500.

8. We have heard both the counsels appearing in this case. On a perusal of pleadings, it can be seen that the employer/respondents had not selected the applicant on the date of document verification and he was informed that he will be informed later. Mere coming in the short listed candidate does not give any right to be appointed to a post. It is clear that some malpractice was adopted to exclude a candidate who came as Sl.No.2 on the basis of marks obtained in the SSLC exam. The Hon'ble Supreme Court in the case of ***Chairman, All India Railway Recruitment Board & Another v. K.Shyam Kumar & Others [reported in (2010) 6 SCR 291]*** had held that in the event of cancellation of process due to malpractice, the candidates will not get any legal right to be appointed.

9. It is clear in this case, that malpractice had occurred and it is only just and

proper to cancel the selection process and hence there is nothing wrong in re-issuing of notification for the post.

10. We do not find any illegality or arbitrariness in the action of the respondents.

11. So, we find no merit in the OA and it will stand dismissed. No costs. The interim order to keep one post vacant will stand vacated forthwith.

(T.Jacob)
Member(A)

21.02.2020

(P.Madhavan)
Member(J)

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