

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.169/2012

Date of Decision: 04.02.2020

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

Smt. Pratibha Chandrakant Sapkale
Officiating Inspector of RMS
Sorting Assistant, HRO RMS 'L' Divn.
Bhusawal, Jalgaon – 425 201.
R/o. Kashiram Nagar, Khalwadi,
Nr. Kolthe Chakki, Bhusawal,
Jalgaon – 425 201.

... *Applicant*

(By Advocate Shri R.G. Walia)

Versus

1. Union of India through,
The Secretary,
Ministry of Communications and I.T.
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi – 110 016.
2. The Director General of Postal Services
Dak Bhawan, Sansad Marg,
New Delhi – 110 016.
3. The Chief Postmaster General
Maharashtra State
G.P.O. Mumbai – 400 001.
4. The Postmaster General
Aurangabad Region
Aurangabad – 431 001.

... *Respondents*

(By Advocate Ms. Naveena Kumari)

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

This OA has been filed on 23.12.2011
and was first heard in the year 2012.

2. This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) this Hon'ble Tribunal be pleased to call for the records and proceedings and upon perusal of the same be pleased to direct the respondents to consider the case of the applicant to the post of Inspector of Posts, as she has appeared for the Examination in the year 2008 and passed the Examination in the year 2009 as per result annexed;

(b) this Hon'ble Tribunal be further pleased to direct the respondent to issue appropriate posting orders and appoint the applicant in Maharashtra Circle by considering her case for Inspector of Posts cadre with all consequential benefits;

(c) this Hon'ble Tribunal will be pleased to pass such other and further orders as deem fit in the fact and circumstances of the case.

(d) the cost of this application be awarded to the applicant."

3. The applicant was serving as Sorting Assistant and appeared in the Inspector of Posts Examination for the year 2008 and obtained 262 marks in 5 papers out of which, in two papers (paper III and Paper V), she received 34 and 35 marks which were below the pass marks and she was declared as Surplus Qualified in SC category on relaxed standards. For that year, there was no vacancy announced for the SC category in

Maharashtra Circle to which she belongs. The applicant has urged that she should have been accommodated in the surplus candidates of ST vacancy in Maharashtra Circle and further, that she could have been accommodated in the surplus SC vacancies of other Circles.

4. In regard to her claim that she could, as an SC candidate be accommodated against the ST vacancy that remained unfilled in Maharashtra Circle, the respondents in their additional affidavit in reply to the rejoinder have stated that in terms of DoPT OM No.36012/17/2002-Estt.(Res.) dated 06.11.2003, it is not permissible to fill up a post reserved for a Scheduled Tribe candidate by Scheduled Caste candidates or vice-versa. Moreover, the two unfilled ST vacancies were later filled by accommodating two failed ST candidates by virtue of the relaxed clause and therefore, even such a vacancy was not available.

5. In the circumstances, the only remaining claim of the applicant that needs to be addressed is the aspect of whether there were any SC vacancies declared surplus

from other Circles. In this regard, the respondents have elaborated on the matter in their reply and in their additional affidavit in reply to the rejoinder and during the hearing held today. They have filed a statement signed by the Director of the Department of Posts in letter No.A-34018/13/2019-DE dated 10.01.2020 addressed to the CPMG, Mumbai and which has been placed before this Bench for perusal after serving a copy to the learned counsel for the applicant, that for the Inspector of Posts Examination of 2008 held on 05/07.11.2008, there were 16 vacancies in 7 States and all the 16 vacancies in the 7 States have been filled up after review of failed SC candidates within each circle. In these circumstances, there is no surplus SC vacancy for consideration of the applicant and for her posting in the manner that she seeks in this OA.

6. Learned counsel for the applicant has expressed his satisfaction on the clarification and the affidavit submitted by the respondents both in their replies and by virtue of this letter.

7. With regard to the claim of the applicant that she could have been accommodated in the vacancy of subsequent years when examinations were held, the respondents have referred to the orders of the Principal Bench of this Tribunal in OA No.3813/2011 dated 30.03.2012 of Manoj Kumar Vs. UOI, Ministry of Communications, New Delhi, in which the applicant had appeared for the LDCE examination for Inspector of Posts in 2007 as an OC candidate but did not appear in the merit list for that year. The applicant in that case, had raised objection with the manner of filling up of vacancy relating to the 2008 and 2009 year examinations in which he was not a candidate. The Tribunal had held at para 7 of the OA that it was not open for the applicant to raise objections with regard to the 2008 and 2009 examinations in which he was not even a candidate and that only an aggrieved person can file an application under the Administrative Tribunals Act, 1985. Therefore, since he was not a candidate in 2008 and 2009 examinations, he could not be deemed an aggrieved person and

such an application or request was not maintainable in the form of an OA.

8. This ruling applies *mutatis mutandis* to the present case and hence denies any relief for the prayer sought by the applicant on this aspect.

9. In the result, the Original Application is clearly devoid of merits and is accordingly dismissed without any order as to costs.

(Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

ma.

JD
05/02