



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 4383/2018
MA 208/2020

Reserved on: 03.02.2020
Pronounced on: 10.02.2020

Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Krishan Sehrawat (Aged about 26 years),
S/o Ashok Sehrawat,
R/o H.No. 53, VIII Tilangpur Kotla,
Nangloi Najafgarh Road,
New Delhi-110043
2. Rohit Kumar aged about 27 years
S/o Sh. Umed Khatri
VPO-Ismaila 9-6, Near Shiv Mandir,
Rohtak (HR)-124517
3. Shiv Kumar aged about 29 years
S/o Sh. Shilak Ram
VPO Barhana, Tehsil-Bari, Distt.Jhajjar
(HR)-124107
4. Sachin aged about 24 years
S/o Sh. Shilak Ram
VPO Barhana, Tehsil-Beri, Distt.Jhajjar
(HR)-124107
5. Sandeep Kumar aged about 29 years
S/o Sh. Chander Pal Singh
R/o: L Block, H.No. 302, Gali No. 4,
Sangam Vihar, New Delhi.
6. Vijay Kumar (Aged about 31 years)
S/o Sh. Mange Ram
R/o H.No. 371, Bajit Pur Thakran,
PO Nangal Thakran, Delhi-110039
7. Aman (Aged about 27 years)
S/o Sh. Surender Singh,
R/o H.N.92, Choti Chopal Wali Gali,
Vill Auchandi, New Delhi-110039



8. Rajesh Kumar Pandit aged about 25 years
S/o Shri Rajharn Pandit,
R/o D-156, Saurabh Vihar,
Badarpur, New Delhi- 110 044
9. Sunil Kumar aged about 30 years
S/o Shri Bhoop Singh
R/o VPO Silana, Jhajjar
(Haryana)-124 103. ... Applicants

(By Advocate: Mr.Ajesh Luthra with Mr.Amit Chawla)

VERSUS

Union of India through:

1. The Secretary,
M/o Communication and IT
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-110001.
2. The Chief Postmaster General
Dak-Tar Bhawan, G.P.O,
Parliament Street, New Delhi-1 ... Respondents

(By Advocate: Mr. C.Bheemanna)

ORDER

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. Ajesh Luthra with Mr. Amit Chawla, counsel for applicant and Mr. C.Bheemanna, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:



- “(a) To direct the respondents to produce the original Records of the case before this Hon’ble Tribunal;
- (b) To direct the respondents to consider the applicants for appointment against the posts of postman/mailguard left vacant pursuant to non-joining of selected candidates w.e.t list dated 05/01/18 as per the marks scored by them as per the eligibility along with the candidates who have been selected in the same manner as per notification dated 12/10/18 as per the admitted position be the respondents in their communication dated 30/10/18 confirming that applicants are in the zone of consideration;
- (c) Award costs in applicant’s favour;
- (d) Any other relief or order in applicant’s favour which this Hon’ble Tribunal considers appropriate in the facts and circumstances of this case.

3. The relevant facts of the case are that the process of recruiting to 740 vacant posts of Postman/Mailguard in Delhi Postal Circle for the year 2011-2014 was initiated vide advertisement dated 01.11.2014. More than 1.5 lakhs candidates had applied for the said posts. After the examination result was declared online on 05.01.2018 and a list of all the 740 selected candidates was uploaded as per the letter dated 05.01.2018. As some of the candidates had filed several OAs it was stated that the said result was subject to the outcome of the said OAs no. 1364/2017, 1911/2017 and 1782/2017. Later on as per the report of joining of the candidates in view of the above list of 740 candidates is



concerned, due to refusing to join or due to medical unfitness or because of not responding to the final notices 54 vacancies could not be filled in and accordingly from the wait list the said 54 vacancies were filled up and the list of those subsequently selected candidates out of the wait list was also uploaded on the website as per letter dated 12.10.2018. Some of the applicants in this case had filed OA 3675/2018 and as per the order dated 27.09.2018 passed in the said OA 3675/2018 in view of the submissions made by the counsel for the applicants it was disposed of with a direction to the respondents to provide information to those applicants regarding the marks secured by them and the existence of their names in the waiting list. The relevant portion of the order dated 27.09.2018 is extracted below:-

- "i) The applicants shall submit a representation to respondent no. 2, inter alia, seeking information as to the marks secured by them in the written examination and existence of their names in the waiting list. This shall be done within 15 days from today.
- ii) The respondent No. 2 is directed to dispose of such representation within four weeks from the date of its receipt by way of reasoned reply/order.

4. The case of the applicants is that their names are in the wait list as per the information given by the respondents in view of the above said order dated 27.09.2018 yet they have not been



4. The Postman/Mail Guard online examination was conducted smoothly from 17.05.2017 to 21.05.2017 in which 1,63,362 candidates appeared. Consequently, the result of Postman Mail Guard online examination has been declared by the Circle vide memo No. R&E/R-1/PM-MG (DR) /2015 /Part-IX dated 05.01.2018 (Annexure A-10 of OA) and list of selected candidates has been uploaded on India Post website www.indiapos.gov.in and web link <http://delhi.postalcareers.in> for the information of the candidates. In compliance to the directions of Hon'ble CAT(PB), New Delhi it has been clearly mentioned in the result of Postman/Mail Guard online examination declared vide memo dated 05.01.2019 that the result is subject to outcome of OA No. 1364/2017, 1782/2017 and 1911/2017. Moreover, the candidates have also been informed regarding declaration of result vide office notice No.R&E/R-1/PM-MG(DR)/2015/Part-IX dated 08.01.2018 published on 10.01.2018 in Hindustan Times (English) and Navbharat Times (Hindi).
5. It is further submitted that status of appointment of Postman/Mail Guard 2014 was received from Division/Units of Delhi Circle and as per their reports, 50 vacancies followed by 4 vacancies had arisen as a result of (i) some candidates refused to join (ii) some candidates found medically unfit and (iii) some candidates did not respond to final notice. Accordingly, result of 50 candidates followed by 4 candidates from waiting list for appointment on the post of Postman/Mail Guard for which online examination was conducted from 17.05.2017 to 21.05.2017 was declared by the circle vide memo no. R&E/R-1/AD Confidential-1/2018 dated 12.10.2018 & 31.12.2018. The list of selected candidates was also uploaded on India Post website www.indiapost.gov.in web link <http://delhi.postalcareers.in> for the information of the candidates. Copy of the above mentioned result is annexed and marked as Annexure-R/1 (Colly).



6. The last OC category candidate, selected from Waiting List in the result declared on 31.12.2018 secured 79 marks and the applicant of OA, Sh. Krishan Sehrawat, has secured 78 marks only. The Department has already declared result of 54 candidates from the waiting list (as detailed above) against the candidates whose candidature was cancelled by Divisions/Units due to reasons such as the candidate refused to join, candidate found medically unfit, the candidate does not respond to the offer of appointment etc. As per Para 15 of Postal Directorate letter no. 60-2/2014-SPB-1 dated 21.02.2014 (Annexure-R/2), the validity of waiting list was upto 04.01.2019 and Department has given full justice to waiting list candidates by selecting 54 candidates from waiting list as detailed above."

In support of his contention, the counsel for the respondents relied upon the law laid down by the Hon'ble Supreme Court in the following cases:-

- "(1) **State of UP and Ors. Vs. Rajkumar Sharma and Ors** (2006) 3 SSC 330).
- (2) **Punjab State Electricity Board and Ors. Vs. Malkiat Singh** (2005) 9 SSC 22)
- (3) **Sanjoy Bhattacharjee. Vs. Union of India and Ors.** (1997) 4 SSC 283)
- (4) **Ashok Kumar and Ors. Vs. Chairman, Banking Service Rectt. Board and Ors.** (1996) 1 SSC 283)
- (5) **Shankarsan Dash Vs. Union of India** (1991) 3 SSC 47)
- (6) **Shweta Nishad Vs. Union of India & Ors "** (OA 330/00991 of 2014 CAT-Allahabad Bench)

The counsel for the respondents specifically drew our attention to the following paras in Shankarsan Dash (supra case).



“It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in [State of Haryana v. Subhash Chander Marwaha and Others](#), [1974] 1 SCR 165; [Miss Neelima Shangla v. State of Haryana and Others](#), [1986] 4 SCC 268 and [Jitendra Kumar and Others v. State of Punjab and Others](#), [1985] 1 SCR 899.

6. In view of the facts and circumstances narrated above particularly in view of the fact that all the 740 advertised vacancies have been filled up initially by issuing offer of appointment letters to 740 candidates and thereafter for the reasons stated elsewhere above the unfilled 54 vacancies were also filled up from out of the waiting list and also in view of the law laid down by the Hon'ble Supreme Court referred to by the counsel for respondents, we are of the view that this OA is without merit. Hence, dismissed. No order as to costs.

(Mohd.Jamshed)
Member (A)

(S.N.Terdal)
Member (J)

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