

Central Administrative Tribunal
Principal Bench

OA 587/2001

Hon'ble Shri Govindan S.Tampi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the day of 12th December, 2001

Shri Vinod Kumar
H.No. S/54
New Delhi-110091.
(By Advocate: None)

...Applicant.

Versus

1. Secretary,
GOI/Ministry of Telecommunication
New Delhi.
2. Director General
Posts
New Delhi.
3. Post Master General
(UP) Parimandal,
Lucknow.
4. The Superintendent,
Railway Mail Service,
'SH' Division
Saharanpur.
5. The Senior Record Officer,
Railway Mail Service
Ghaziabad. ... Respondents.
(By Advocate: Shri N.S.Mehta)
6. Shri Mahender Verma
s/o Shri Prem Chand
posted as EDA RMS office Ghaziabad.
R/o K-196 K Sector-9
Old Vijay Nagar,
Ghaziabad. ... Respondent
(By advocate: Shri Yogesh Sharma)

Order(Oral)

By Hon'ble Shri Shanker Raju, Member(J)

MA 1306/2001 has been filed by the respondent. Despite the second call, none appeared on behalf of applicant. The MA is allowed for impleading respondent no.6. We proceed to dispose of the OA under Rule 15 of CAT(Procedure) Rules, 1985.

2. The applicant has assailed the selection of four "Extra Duty Agents (for short 'EDAs') in the year 1996 and he has further sought quashing and setting aside the appointment to the same post in the year 1996. The

applicant stated that he was working as a Extra Duty Mailsman in the Deptt. as a substitute w.e.f. 25 April 1994 and got his name registered with the Employment Exchange, Ghaziabad. For filling four vacancies, for the post of EDMs at Ghaziabad, Senior Record Officer RMS Ghaziabad, sent a requisition to Employment Exchange to sponsor names of eligible candidates which was accordingly forwarded thereafter. The applicant also forwarded his application on 20.8.96. It is stated that in view of instruction contained in letter dated 27.2.87, the departmental candidates who were likely to become overaged shortly be given preference. It is also stated that the applicant not called for interview and four outside candidates have been selected and were appointed by the respondent to the said post. It is vehemently stated that the applicant is having requisite experience of looking after the duty of EDA and he has been denied his preferential right to be selected for the post of EDA. It is lastly stated that he belongs to OBC and a post reserved for OBC has been wrongly given to a handicapped person.

3. Respondents in their reply stated that in pursuance of receipt of the application of applicant they prepared a comparative chart under recruitment rules vis-a-vis the qualification of the candidates. As per EDAs, Recruitment Rules Class VIII is prescribed for the recruitment of the ED Mailsman and priority should be given for Matriculates. It is stated that the applicant could not come in the prescribed zone of consideration. As such as he had not been considered for appointment. As far as the accord of weightage for the experience as

Departmental candidates is concerned, the same is not permissible as held by the Full Bench of this Tribunal. Among four candidates selected from the Open Market two are from SC and other caste respectively. Other contention is that Shri Rajesh Kumar has been recruited in place of applicant, who is OBC (handicapped), is not correct.

4. On the other hand, Shri Yogesh Sharma, who is appearing for private respondent, one of the selected candidate, namely, Mahender Verma, SC contended that OA is barred by doctrine of Res judicata as the applicant is similarly situated person alongwith other in OA-1352/96 before the Hon'ble Allahabad Bench. The said OA has been dismissed for default and non-prosecution without any liberty, and thus the present OA is not maintainable for the same cause of action. It is also stated that selection had taken place in 1996 whereas this OA has been filed beyond the period of limitation under section 21 of the AT Act, 1985 and selection have already been taken. It is further stated that the necessary parties who are to be effected by the outcome of this OA have not been impleaded. As such this OA is liable to be dismissed on account of non-joinder of necessary parties and also lacks merit. It is stated that although the rule stipulates eligibility as 8th Pass but preference to be given to Higher Qualification and selections have been made for possessing High School Certificates (Matriculates). As such the case of the applicant was rightly not considered.

5. We have carefully considered the rival contentions of the parties and perused the records.

6. In our considered view the claim of the applicant in this OA is devoid of merit. Earlier OA already filed on same cause of action was dismissed and thereafter the same had not been restored. In this case selection for the year 1996 has been assailed which would be clearly barred by the doctrine of res judicata. The applicant has also failed to revoke the attention of the impleaded respondents. The OA also suffers from legal infirmity of non-joinder of necessary parties, as the persons who have been selected but has not been impleaded. The OA is also barred by limitation as the selection had taken place in 1996 whereas this OA has been filed in 2001, i.e., after a delay of five years whereas under section 21 of A.T. Act, 1985, the application has been filed within one year from the order against which the applicant is aggrieved.

7. On merits too the applicant has no casee as the respondents have acted as per the recruitment rules pertaining to the recruitment of EDA. Although the qualifications and requisite criteria is 8th standard but higher qualification is given preference thee cases of selected candidates. On merit the claim of the applicant was rightly not considered. We do not find any fault with the action of the respondents. As regards experience is concerned, both instructions of 1987 have been shown to us but in view of decision in Full Bench (Bangalore Bench of this Tribunal) in OA 100/99 with connected matters (D.M.Nagesh and Others Vs. Superintendent of Posts and Others dated 19/20th April,2000) it has been held that no

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weightage should be given to departmental candidates in selection pertaining to DEA. In the result, having regard to the reasons recorded above, we do not find any merit in the OA and the same is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)
/kd/

(Govindan S. Tampli)
Member (A)