

Central Administrative Tribunal  
Principal Bench

O.A.No.2192/96  
with  
O.A.No.2580/96

Hon'ble Mr. Justice K.M.Agarwal, Chairman  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 14<sup>th</sup> day of September, 1998

O.A.No.2192/96:

1. Santosh Kumar  
s/o Shri Shyam Lal  
EDBPM Doeseras  
Via Goverdhan (Mathura)
2. Than Singh  
s/o Late Ummed Singh  
EDDA Satoha  
(Mathura).
3. Rakesh Kumar  
s/o late Gopeshwar Dayal Saxena  
ED Packer Saxena  
Rajadhiraj Mathura.

... Applicants

(By Shri D.P.Sharma, Advocate)

Vs.

1. The Union of India  
Ministry of Communication  
(Deptt. of Posts)  
New Delhi.
2. The Director General (Posts)  
Oak Bhawan  
Parliament Street  
New Delhi.
3. The Postmaster General  
Pratap Pura  
Agra.
4. The Sr. Supdt. Post Offices  
Mathura Dn.  
Civil Lines Mathura (UP).

... Respondents

(By Shri N.S.Mehta, Advocate)

O.A.No.2580/96:

1. Bhagwan Dass  
s/o Mohanlal, Extra Departmental  
Runner Airakhera  
Via Raya Distt. Mathura.
2. Rampal Singh  
s/o Shri Basudeo  
Extra Departmental Delivery Agent Arrua  
Via - Mant Distt. Mathura.

... Applicants

(By Shri D.N.Sharma, Advocate)

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Vs.

1. The Union of India  
Ministry of Communication  
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Mathura Dn.  
Civil Lines Mathura (UP). ... Respondents  
(By Shri N.S.Mehta, Advocate)

**ORDER**

**Hon'ble Shri R.K.Ahooja, Member(A)**

Since the facts involved and the reliefs sought for in both the OAs are similar, we dispose of the same by this common order.

2. The Senior Supdt. Post Offices, Mathura, Respondent No.4 vide his letter dated 19.6.1996, Annexure-A2 invited applications from Extra Departmental Agents (EDAs) for filling up departmental vacancies of posts of Sorting Assistants of 1996. Five of the vacancies were for the Other (general) Category and two for the ST category. The applicants herein appeared in the examination on 14.7.1996 and 27.8.1996 both for the written as well as viva-voce test. The grievance of the applicants is that vide impugned Memo, dated 14.09.1996, Annexure A1, Respondent No.4 wrongly and illegally transferred the five vacancies of other castes from the departmental quota to the outsiders. This was done despite the orders of the Director General (Posts), Annexure A4 that the vacancies of departmental quota which could not be filled in the year of 1995 should be

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filled by the EDAs in 1996. The applicants point out that vide letter dated 7.6.1996, Annexure A5 the Director (Staff), Ministry of Communication, issued a clarification stating that merit list of direct recruitment candidates and EDA be prepared separately and the EDAs who secured not less than 10% from the last open market candidate of direct recruitment will come in the merit list for select list amongst the EDAs. The applicants now seek a direction to the respondents to declare the results of five vacancies of EDAs quota and setting aside the impugned result, Annexure A1 of continuing outsiders posted against EDA's quota.

3. The respondents in their reply have stated that vacancies for outsiders quota for the year 1996 were notified to the local District Employment Exchange. Similarly under the instructions and orders of Director General, Department of Post, New Delhi it was decided to fill up Departmental quota vacancies for the year 1995 by EDAs on the condition that the EDAs had 10 + 2, Senior Secondary minimum qualification and would have completed three years service in the department as on 1.1.1996. It was also laid down that the EDA candidates should be under 35 years age on 1.7.1996; there being relaxation for OBC three years and SC/ST for 5 years. The selection would be based on written examination and viva voce test in the same way as it was to be done for the direct recruitment candidates. Those EDAs who produced certificate of typing with a speed of 30 w.p.m. in English and 25 w.p.m. in Hindi were allowed to appear in the Typing Test along with the outsider candidates. After the examination the merit list of direct recruitment candidates were prepared in descending order

according to the marks obtained by them and the merit list of EDAs was also prepared on the same analogy separately. While the selection of direct recruitment candidates was to be made as per seniority in the merit list in respect of EDAs only those candidates were to be selected who had secured not less than 10% marks in comparison to the last open market candidates of the recruitment last made. However, no EDA candidate could come into this category as the last other community candidates had secured 66.2% marks while the highest marks obtained by an EDA in this category of candidates was 49.9%.

4. We have heard the counsel. It transpires that the criteria fixed by the respondents was in relation to the last recruitment test. Thus if therein the last open candidate had secured 75% marks, then the selection of EDA would be made on the basis of a minimum of 65% marks. The last recruitment was made in 1982 when the minimum marks obtained were 66.2 %. There is however a material difference between 1982 and the present examination. In 1982 the minimum educational qualification was matriculation and now its 10 + 2. The components of the examination have also under gone change. Thus there cannot be any comparison between these two tests. In 1982 the selection was made on the basis of the marks obtained in the matriculation examination which in the present case there has been a competitive examination. We are also at a loss to understand as to why the respondents should fix the criteria with reference to marks obtained in the examination held as far back as 14 years earlier. If some relationship in performance between the open market

candidate and the departmental candidate was required then it should have been with reference to the marks obtained by the open market candidates in the latest test. When recruitment is being made from two different sources, i.e., open market and by promotion and vacancies are reserved separately for each of these sources, it would appear to be unfair to relate the qualifying marks of the departmental candidates to those from open market; what could be done, to maintain a proper standard, would be to set up minimum qualifying marks for the departmental candidates independently.

5. In the result, we direct the respondents to reconsider the criteria for setting up of the minimum marks to be obtained by EDA candidates and thereafter to declare the results of the applicants. This will be done within a period of two months from the date of receipt of a copy of this order. It is made clear that the respondents will not in the meantime transfer the vacancies meant for EDAs to any other category.

*K.M. Agarwal*  
(K.M. Agarwal)  
Chairman

*R.K. Ahooja*  
(R.K. Ahooja)  
Member (A)

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