

Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 30th JANUARY 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

O.A. No. 909 of 1997

Shri Dharam Pal,
S/o Shri Ram Sarup,
Postman,
Hisar, Haryana.

Applicant

(By Advocate: Shri Sant Lal)

Versus

1. The Union of India through
the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan, New Delhi-110001.
2. The Chief Postmaster General,
Haryana Circle,
Ambala Cantt-133001.
3. The Superintendent of Post Offices,
Hisar Division,
Hisar-125001. Respondents

(By Advocate: Shri K.R. Sachdeva)

O.A. No. 918 of 1997

Shri Kishore Sharma,
S/o Shri Umesh Dutt Sharma,
Postman,
Hisar, Haryana

Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Union of India through
the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan,
New Delhi-110001.
2. The Chief Postmaster General,
Haryana Circle, Ambala Cantt-133001.
3. The Superintendent of Post Offices,
Hisar Division,
Hisar-125001. Respondents

(By Advocate: Shri K.R. Sachdeva)

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ORDERMR. S.R. ADIGE, VC (A)

As these two O.As involve common questions of law and fact they are being disposed of by this common order.

2. Applicants impugn respondents' letter dated 18.3.97 (Annexure A-1 in O.A. No. 909/97) and seek consideration for promotion as Postal Assistants pursuant to the departmental examination held on 28.7.96 on the basis of their merit in the said exam., against 50% departmental quota with all consequential benefits.

3. According to Postal and Sorting Assistants Recruiting Rules, 1990 (Annexure A-6) 50% of vacancies are to be filled by direct recruitment and 50% through promotion by departmental examination. The Office of the Superintendent of Post Offices, Hissar Division issued letter dated 21.5.96 (Annexure A-2) inviting applications from lower grade officials of Hissar Postal Division for the aforesaid departmental exam. scheduled on 28.7.96 for promotion as Postal Clerk/Postal Assistant. Applicants appeared in the aforesaid exam. and by letter dated 9.12.96 (Annexure A-3), the results of the departmental examination of LGOs for promotion as Postal/Sorting Assistants held on 28.7.96 was declared in respect of Haryana Circle. Against Hissar Division, there was a remark. No

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vacancy" in that letter. A supplementary result of the said examination was also issued vide letter dated 10.1.97 (Annexure A-4).

4. As applicants did not feature in the list of successful candidates, they applied for and received the list of marks obtained by them in the aforesaid exam. They represented to respondents that on the basis of their performance, they had obtained qualifying marks in the departmental examination and were entitled to be considered for appointment. Respondents, however, contend that there are no vacancies available in departmental quota in Hissar Division against which to appoint applicants, which contention is denied by applicants.

5. We have heard applicants' counsel Shri Sant Lal and respondents' counsel Shri Sachdeva. We have also perused the materials on record and given the matter our careful consideration.

6. The question of adjudication is whether there were two vacancies available in 50% promotion through departmental examination quota at the time ~~the~~ departmental exam. was held on 28.7.96 against which applicants could be considered for promotion.

7. Respondents in their additional affidavit dated 7.9.2000 agree with the contents of applicants' calculation sheet of vacancies (Annexure A-12) till row 4. From these documents, we find that both sides agree that the sanctioned strength of Postal

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Assistants (both permanent and temporary) in Hissar Postal Division as on 1.1.96 was 255, against which 243 were in position, leaving 12 posts of Postal Assistants vacant as on 1.1.96. Figures regarding the actual number of vacancies which occurred in Hissar Postal Division during the period 1.1.96 to 31.12.96 differ in as much as in one document it is stated to be 8 while in another document it is stated to be 14, as a result of which the total number of vacancies occurring in Hissar Postal Division would be either 20 (12+8) or 26 (12+14). Respondents contend that these vacancies include 18 vacancies already advertised on 20.2.96, and, therefore, require to be deducted from the total, for otherwise there would be double counting of vacancies.

8. As stated earlier, the Recruitment Rules require 50% of all vacancies to be filled through direct recruitment and 50% through promotion on the basis of departmental examination. Thus if the total number of vacancies occurring in Hissar Postal Division were 20, then 10 vacancies should have been gone to the promotion quota and if it was 26 then 13 vacancies should have been gone to promotion quota. Respondents have not clarified which quota the aforesaid 18 vacancies belonged ^{to} which were advertised on 20.2.96. If that advertisement on 20.2.96 violated the 50% quota rule, it cannot be sustained in law.

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9. Under the circumstances, we are unable to accept respondents' contention at this stage that no vacancies were available in Hissar Postal Division under the 50% promotion through departmental examination quota for considering the claim of applicants for promotion as Postal Assistants, pursuant to the departmental examination held on 28.7.96.

10. Accordingly, we dispose of both these O.As with a direction to respondents to recalculate the vacancies ^{care} fully within the 50% promotion through Departmental Examination quota, between and including 1.1.96 and 31.12.96 which became available for being filled up through the departmental examination which was held on 28.7.96 and consider applicants' claim for promotion against the same in accordance with rules and instructions ^{by a detailed, speaking and reasoned order} within three months from the date of receipt of a copy of this order. If applicants are so promoted, they shall be entitled to benefits flowing therefrom, which are admissible in accordance with rules and instructions. No costs.

11. Let copies of this order be placed in both O.A case records.

(KULDIP SINGH)
Member (J)

(S.R. Adiga)
Vice Chairman (A)

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Am J
Court Officer
Central Administrative Tribunal
Prin. and Bench, New Delhi
Fariokot House,
Copernicus Marg,
New Delhi 110001