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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.1042 of 1997

New Delhi this the 16th day of October, 1997.

HON'BLE DR. JOSE P. VERGHESE, VICE CHAIRMAN (J)  
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. Shri Mam Chand  
S/o Shri Sohan Lal  
R/o Village & PO Hasanpur District,  
Ghaziabad UP.
2. Laxmi Narain Meena  
S/o Shri Nathu Lal  
R/o 3/63 TTurkmirpur,  
Karawal Nagar,  
Delhi-94. ....Petitioners

By Advocate Shri Sant Lal.

Versus

1. Union of India through  
Secretary,  
Ministry of Posts and Telecommunications,  
Sanchar Bhawan,  
New Delhi.
2. Chief Post Master General,  
Delhi Circle,  
Meghdoot Bhawan,  
New Delhi.
3. Assistant Director of Postal Services,  
New Delhi.
4. Senior Superintendent,  
New Delhi Sorting Division,  
Meghdoot Bhawan,  
New Delhi.
5. Mohinder Singh III,  
New Delhi Sorting Division,  
Railway Mail Service,  
New Delhi.
6. Kripa shankar Mishra,  
New Delhi Sorting Division,  
Railway Mail Service,  
New Delhi. ....Respondents

By Advocate Shri K.C.D. Gangwani.

ORDER (ORAL)

Hon'ble Dr. Jose P. Verghese, Vice Chairman

The petitioners had approached to this Court  
challenging the order passed by the respondents on

28.4.1997 by which the promotion of both the petitioners from Group 'D' to Group 'C' had been cancelled on the ground that they had committed a mistake while assigning the total marks to each candidate in the examination prior to such appointment. The counsel for the petitioner pointed out that the said cancellation of their candidature and promotion to Group 'C' without notice, was illegal and the same may be quashed.

2. After notice, the respondents replied and stated that it was by a bona-fide mistake; while counting the total number of marks obtained, the marks obtained by respondent Nos. 5 and 6 were erroneously recorded against the names of the petitioners. The respondents also produced the record and the mark list and on perusal, we find that it was a bona fide mistake and that the same has been corrected.

3. Since the marks obtained by the candidates were before us and the petitioners had already shown that the respondents have not appointed those, who belong to SC and ST against quota prescribed for selection, from the records we found that the prescribed quota for SC was 5 and the promotions already made were for 6, and since the petitioner's name have been wrongly included in the select list, by

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excluding the six SC candidate, the selection remains within the prescribed quota as far as SC candidates are concerned. Since all 5 other posts have already been filled in by the number of SC, no further order can be passed in favour of petitioner No.1.

4. Petitioner No.2 belongs to the ST quota. According to the respondents, the prescribed quota in this examination for ST is 4, but only 2 vacancies in this quota have been filled up. That is to say, 2 more vacancies remains to be filled up in the ST quota. It was shown that the petitioner had not obtained the 33 % marks, as required, but on the face of the letter of the Director General of Posts and Telegraphs dated 4.5.1981 for the purpose of complying with the quota rule, the respondents could relax the standard even in favour of failed candidates, and the Government should have offered appointment after perusing the entire record including the confidential reports of the petitioner. In the circumstances, it is fit and proper to give a direction to the respondents to consider the case of the petitioner No.2 for appointment to one of the Group 'C' posts reserved for ST for appointment and in case he is found eligible in accordance with the existing rules that are applicable as and when the vacancies arose. The respondents shall give a reply within 2 weeks from the date of the receipt of a copy

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of this order.

5. With this, the O.A. is disposed of. No order as to costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(DR. JOSE P. VERGHESE)  
VICE CHAIRMAN

Rakesh