

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA No.180/00159/2017

Monday, this the 1st day of February, 2021

CORAM:

Hon'ble Mr. P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

1. Jithesh Kumar A.P., aged 30 years,
S/o A.P. Krishnan,
GDSBPM, Manjeri Division,
Department of Posts.
Residing at Alikkal Parambil House,
Cherukara P.O., Perinthalmanna,
Malappuram.
2. Veena K.T., aged 26 years,
D/o Vasudevan K.T.,
GDSMP, Munduparamba S.O.,
Manjeri Division, Department of Posts.
Residing at Karuthodiyil House,
Munduparamba P.O.,
Malappuram- 676 509.
3. Soumya Joseph C., aged 31 years,
W/o Sinto M.A.,
GDSMD, Nadavaramba P.O.,
Irinjalakuda Division, Department of Posts.
Residing at Maliyekkal House,
Vellangallur P.O., Kalpramba,
Thrissur -680 662.
4. Shiji Kanjiramullathil, aged 31 years,
D/o Chathu,
GDSMC, Pasukkadavu BO,
Vadakara Division, Department of Posts.
Residing at Kanjiramullathil House,
Chappanthottam P.O., Kavilumpara (via),
Kozhikode- 673 513.
5. Ambily Paulose, aged 32 years,
D/o V.J. Paulose,
GDSMD, Kizhakombu B.O.,
Aluva Division, Department of Posts.
Residing at Vadakkedath House,
Kizhakombu P.O., Koothattukulam,

Pin- 686 662.

6. Prasanth M., aged. 28 years,
S/o. Murukesan C,
Department of Posts, GDSMD,
Kattachira B.O., Kidangoor SO,
Kottayam Division, Department of Posts.
Residing at Murukavilasom House,
Punnathura P.O, Kottayam-686 583.

Applicants

(Advocate: Mr.V.Sajith Kumar)

Versus

1. Union of India, represented by
the Secretary to Government,
Department of Posts, Ministry of Communications,
Government of India, New Delhi-110 011.
2. The Chief Post Master General,
Kerala Circle, Trivandrum-695 033.
3. The Superintendent of Post Offices,
Manjeri Postal Division, Manjeri-676 121.
4. The Superintendent of Post Offices,
Irinjalakuda Postal Division, Irinjalakuda-680 121.
5. The Superintendent of Post Offices,
Vadakara Postal Division, Vadakara-673 101.
6. The Superintendent of Post Offices,
Aluva Postal Division, Aluva- 683 101.
7. The Superintendent of Post Offices,
Kottayam Postal Division, Kottayam-686 001.

Respondents

(Advocate: Mr.C.P.Ravikumar, ACGSC)

This OA having been heard on 14th January, 2021, the Tribunal delivered the following order on 01.02.2021:

ORDER

P.Madhavan, Judicial Member

This is an OA filed seeking the following reliefs:

- (i) *Quash Annexure A6*
- (ii) *Declare that denial of appointments against notified vacancies of neighbouring divisions remaining unfilled merely based on Annexure A1 notification is highly arbitrary and illegal.*
- (iii) *Direct the respondents to consider the claim of the applicants to the post of Postal Assistants notified in Annexure A1 and remaining unfilled in the neighbouring postal divisions and grant them appointments as PA with all consequential benefits as expeditiously as possible.*

2. The question in dispute is whether a qualified surplus candidate in a particular division can be posted to nearby divisions, if there is lack of vacancies in the division in which candidate appeared for examination?

3. The applicants are working as GDS in various divisions in Kerala Circle of the Postal Department. The Department issued Annexure A1 notification for 25 vacancies of Postal Assistant on 27.6.2016. According to the applicant, when there is dearth of qualified candidates within a division, the respondents used to fill up the remaining vacancies from candidates successful from neighbouring divisions. The respondents had filled up only 11 vacancies and 7 other candidates who were qualified in the departmental examination were kept out of consideration. Earlier whenever LGO examinations were conducted, unfilled vacancies were filled by candidates from neighbouring divisions.

4. Though the applicants came out successful, the respondents are not posting them in the unfilled vacancies of neighbouring divisions as they had done earlier. Though the applicants gave representations to the respondents to give appointments, there was no action. The applicants moved OA No.14/2017 before the Tribunal and the Tribunal directed the respondents to consider the

representations on merit and pass an order (Annexure A5). The respondents rejected the representations without giving any valid reasons (Annexure A6) which is the impugned order in this case.

5. The respondents filed a detailed reply . They contended that similar cases OA No.869/2012 & OA No.981/2012 were earlier filed and those cases were dismissed by this Tribunal by a common order dated 11.1.2013 (vide Annexure R1). It was also contended that the applicants had not challenged Annexure A1 notification as per Recruitment Rules. They had also not challenged the Recruitment Rules before the Tribunal. The Tribunals are not expected to tinker or tamper with Recruitment Rules. The appointments had to be made on the basis of Recruitment Rules.

6. Annexure A1 notification was issued for the vacancies for the year 2013. Applicants 3, 5 & 6 had applied for the vacancies of 2013 and applicants Nos.1, 2 & 4 had applied for the vacancies for the year 2014 which was notified as per Annexure R2 notification dated 27.6.2016.

7. As per Annexure A2 Recruitment Rules, the method of recruitment is:

1. *50% of posts by promotion through LDCE, failing which the unfilled vacancies shall be filled by direct recruitment of GDS of the recruiting division on merit.*
2. *50% by direct recruitment from open market.*

8. Any vacancy remaining unfilled after being offered to GDS of recruiting division on merit will be filled up from open market in accordance with the provision in Col.10 of Annexure A2 Recruitment Rules.

9. All the applicants are GDS engaged in various postal divisions of Kerala Circle. According to the respondents, GDS of a particular division will be considered only against the vacancies of that division and not that of other

divisions. If there exists any further vacancy, that has to be filled from open market.

If there occurs more candidates meritorious in a division, they can be considered for the vacancies in the 50% departmental quota only (vide Annexure R3 O.M., dated 27.7.1989). The selection from GDS is governed by separate rules. So the applicants can be considered only for the existing vacancies of the 50% promotion quota in these divisions. So there is no merit in the OA.

10. We have heard the counsel appearing for the applicants as well as the counsel for the respondents. We have also gone through the various documents produced by both sides.

11. Annexure A1 is the notification dated 27.6.2016 issued for filling up of 2013 vacancies of Postal Assistants/Sorting Assistants from the GDS of various divisions. As per the notifications, the eligibility conditions are:

Eligibility Conditions:

1. *The GDS should have a regular engagement of 5 years as on 01.01.2013.*
2. *The GDS should have passed and obtained at least 50% marks in 10+2 or 12th class from a recognized university or Board of Secondary Education with English as a compulsory subject (excluding vocational streams).*
3. *The age should be 18 to 30 years as on 1.1.2013. It is relaxable by 5 years for SC/ST and 3 years for OBC candidates as prescribed in rules.*
4. *The selection of GDS will be strictly as per Recruitment Rules of the vacancy year.*
5. ***The GDS of a particular Division will be considered only against the vacancies of that Division and not that of other Divisions.***
6. ***The GDS of those Divisions, where the vacancies are available, can only apply for the exam.***

12. The number of vacancies is shown as Annexure A in Annexure A1 notification.

13. On going through the Recruitment Rules produced as Annexure A2 and on a reading of Column 10, it can be seen that 50% vacancies are for promotion by LDCE examination from the department. On failing this method, the unfilled vacancies will be filled up by direct recruitment from GDS of the recruiting

division wherein vacancy exists and GDS alone can apply for the selection of Postal Assistants. Annexure A1 & Annexure R2 notifications (2014) clearly show this condition as an important condition for eligibility. Annexure A7 produced by the applicants also supports the contention of the respondents that the excess candidates of a particular division can only be accommodated in the vacancies available in the departmental quota of a particular year.

14. On a reading of Clause 10, it can be seen that GDS of a particular division where vacancy exists alone can apply for the selection of Postal Assistant from GDS. The recruitment notifications Annexure A1 & Annexure A2 (2014) clearly show this condition as an important consideration. Annexure A7 produced by the applicant also supports the contention of the respondents that the excess candidates of a particular division can only be accommodated in the vacancies available in the department quota of a particular year.

15. When the vacancies cannot not be filled by GDS, such vacancies have to go to direct recruitment from open market.

16. So, we find that there is no rule or practice of filling up vacancies of other divisions from the surplus candidates of a particular division.

17. **So we are of the opinion that there is no merit in the OA and it is liable to be dismissed.**

18. **The OA will stand dismissed.** No order as to costs.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

Annexures filed by the applicants:

- Annexure A1: A true copy of the Notification No. Rectt/10- 6/2013/1 dated 27/06/2016 issued by the 2nd Respondent.
- Annexure A2: A true copy of the relevant pages of the notification dated 03/11/2011 issued by the 1st Respondent.
- Annexure A3: A true copy of the Recruitment Rules G.S.R. 411(E) dated 21/05/2015 issued by the 1st Respondent.
- Annexure A4: A true copy of the Representation dated 05/12/2016 submitted by the 3rd Applicant to the 2nd Respondent.
- Annexure A5: A true copy of the Order dated 09/01/2017 by this Tribunal in O.A. 14/2017.
- Annexure A6: A true copy of the Memo No. Rectt/ OA 14/2017 dated 10/02/2017 issued by the 2nd Respondent.
- Annexure A7: A true copy of the letter dated 2.4.2018 issued by the CPIO and Superintendent of Post Offices to the 3rd applicant.

Annexures filed by the respondents:

- Annexure R1: True copy of the order dated 11.1.2013.
- Annexure R2: True copy of the notification dated 27.6.2016.
- Annexure R3: True copy of the letter dated 27.7.1989.
- Annexure R4: True copy of the order dated 27.10.2016.
- Annexure R5: A true copy of order dated 12.8.2016 of the Hon'ble Apex Court in Civil Appeal No.90/2015 and 91/2015 filed by Y.Najithamol & Others.