

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/1346/2014

HYDERABAD, this the 12th day of November, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



1. D. Hussain, S/o. D. Kamal, aged about 34 years, Mailoverseer, Kurnool East Sub Division, Kurnool.
2. K. Ramakrishna, S/o. K. Pedda Maddaiah, aged about 33 years, working as Sorting Postman in Kurnool Camp, Kurnool.
3. C.Bhushan Kumar, S/o. C. Sesaiah, aged about 31 years, working as Postman in Kurnool Head Post Office, Kurnool.
4. B.Mahaboob Basha, S/o. Usain Vali, aged about 34 years, working as Mail Overseer, Yemignoor Sub Division, Yemmignur in Kurnool Division, Kurnool.
5. K.Eswaraiah, S/o. K. Sankaraiah, aged about 33 years, working as Postman in Kurnool Head Post Office, Kurnool.
6. K.Chand Basha, S/o K. Sattar Miah, aged about 41 years, working as Postman in NR Peta, LSG (SO) Under Kurnool Head Office, Kurnool.
7. G.Murali Krishna, S/o. G. Subba Rayudu, aged about 29 years, working as Postman in N.R. Peta Sub Office, under Kurnool Head Office, Kurnool
8. S.Murthujavali, S/o. Makthm Saheb, aged about 35 years, Working as Postman in Atmakur S.O under Kurnool Postal Division, Kurnool.

9. M.Rama Maddilety, S/o. M. Maddilety, aged about 49 years, working as Mail Overseer in Nandikotkur Sub Division under Kurnool Postal Division, Kurnool.

...Applicants



(By Advocate : Mrs. K. Janaki)

Vs.

1. Union of India, represented by the Director General, Department of Posts, New Delhi.
2. The Chief Post Master General, A.P.Circle, Hyderabad.
3. The Postmaster General, Kurnool Region, Kurnool.
4. The Superintendent of Post Offices, Kurnool Postal Division, Kurnool.
5. The Assistant Superintendent of Posts, Kurnool West Sub Division, Kurnool.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed in regard to selection of the applicants as Postal Assistants.

3. Brief facts of the case are that the applicants were appointed as Gramin Dak Sevaks and were later promoted as Postmen in 2011. Respondents issued a notification to conduct Limited Departmental Competitive Examination (LDCE) for promoting Lower Grade Officials at Kurnool against the vacancies of Postal Assistant /Sorting Assistant for the year 2014. The cut off date fixed to appear in the examination is 01.01.2014. Applicants applied for the examination but their applications were rejected. Aggrieved, OA has been filed.

4. The contentions of the applicants are that if the eligibility condition of three years of service to be rendered were to be taken with respect to the date of examination, then they would become eligible. Applicants contend that fixing the cut off date as 1.1.2014 instead of examination date i.e. 21.09.2014 is arbitrary and irregular.

5. Respondents have filed a reply wherein they stated that as per the notification issued for conducting Limited Departmental Competitive Examination for promotion to the post of Postal Assistant/ Sorting Assistant, three years regular service as Postman/Mail Guard in pay band with grade pay of Rs.2000/- is required to appear in the examination. The cutoff date has been fixed at para 4 of the notification as 01.01.2014.

Applicants did not have the required three years of service as on 01.01.2014 and hence their applications to appear in the examination were rejected.

6. Heard Smt K. Janaki, learned counsel for the applicants and Smt K. Rajitha, learned Senior Central Government Standing Counsel for the Respondents and perused the pleadings on record.



7. I. It is evident that the respondents have issued the notification for conduct of LDCE to promote LGOs to the post of Postal Assistant /Sorting Assistant. The relevant notification at para 3(i) and para 4 prescribe that the eligibility criteria for appearing in the examination is three years service as on 01.01.2014. The applicants did not have three years as on 01.01.2014 but their submissions is that, if the cut off date were to be fixed as the date of examination, then they would be eligible for appearing in the examination. The law is very clear that the conditions specified in the notification have to be followed. In particular, when a specific cut off date is given in the notification then that date is applicable on all those who wish to appear in the examination. In case if the cut off date is not given, generally it is the last date of receipt of applications which will be considered as cut off date. In the instant case, when the cut off date is fixed as 01.01.2014, it is this date which has to be reckoned to consider eligibility of the applicants for appearing in the examination. As the applicants did not fulfill the condition of 3 years service by the cut off date as prescribed in the notification, they are not eligible for appearing in the cited examination. Honøble Supreme Court has made it clear that the mandatory instructions contained in the notification have to be strictly followed in the following judgment, which is extracted hereunder:

Supreme Court of India in District Collector And Chairman ... vs M. Tripura Sundari Devi on 20 April, 1990, Equivalent citations: 1990 SCR (2) 559, 1990 SCC (3) 655



6. It must further be realized by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.

As per the above observation of the Honøble Supreme Court, the decision of the respondents to reject the claim of the applicants is proper in respect of rules as well as law.

II. In view of the above, we do not find any merit in the O.A. Therefore, the same is dismissed. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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