

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/01264/2014

Date of CAV: 10.12.2020

Date of Pronouncement : 15.12.2020.



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

K.B.Ramesh, S/o Dasaiah,
Aged about 30 years,
Occ : Gramin Dak Sevak Branch Postmaster,
Palakonda B.O., A/w. Mahabubnagar H.O. 509001.
MAHABUB NAGAR division.

...Applicant

(By Advocate : Mr. M.Venkanna)

Vs.

1. Union of India represented by
The Secretary, Government of India,
Ministry of Communication & IT,
Department of Posts – India,
Dak Bhavan, Sansad Marg,
New Delhi – 110001.
2. The Chief Postmaster General,
A.P.Circle, “Dak Sadan”,
Abids, Hyderabad 500001.
3. The Postmaster General,
Hyderabad Region,
Hyderabad 500001.
4. The Superintendent of Post Office,
Mahabubnagar Division,
MAHABUBNAGAR 509001.
5. The Senior Superintendent of Post Offices,
Secunderabad Division,
Gandhi Nagar, Hyderabad - 500080.
6. The Superintendent of Post Offices,
Kurnool Division, KURNOOL – 518001.

....Respondents

(By Advocate: Mrs.Megha Rani Agarwal, Addl. CGSC)

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

Through Video Conferencing:

2. The OA is filed in regard to the selection of the applicant as post man.
3. Brief facts as stated by the applicant, are that the applicant belonging to the SC community, working as Grameen Dak Sewak (GDS) Branch Post Master in Mahaboobnagar Postal division, appeared in the Postman/Mail Guard examination conducted for filling up the vacancies of 2012 against notification dated 20.8.2013, for which GDS/MTS are eligible to appear. In Mahaboobnagar Division, there were 3 vacancies available for GDS with the community break up of 2 for OC and 1 for OBC and 3 candidates of the respective community got selected. In respect of MTS candidates there were 4 vacancies available and they were not filled up. These vacancies were thrown open to the open market, by showing one vacancy for SC. Later, respondents issued notification dated 17.7.2014 showing 7/8 SC vacancies of the year 2012 in respect of Secunderabad and Kurnool divisions respectively, which neighbour Mahaboobnagar Division. As per recruitment rules, applicant who secured 36 marks in the cited exam, is eligible to be considered for neighbouring divisions as a surplus qualified candidate against SC vacancy. Applicant represented on 8.1.2014 to consider him for SC vacancies in neighbouring divisions and in response it was informed that there were no vacancies in the neighbouring divisions. Further, representations dated 31.1.2014/18.8.2014 were submitted to the 2nd /1st respondents to consider him against the SC vacancies shown in the



notification dated 17.7.2014. Applicant claims that Sri K. Venkataiah and Sri Murali Mohan, who are SC candidates from the GDS cadre appeared in the 2010 exam for postman and got selected as Postman on merit basis. However, they were adjusted against SC vacancies instead of OC vacancies as per rules. Had they been adjusted against OC vacancies, the 2 SC vacancies would have been available for the panel year 2012 and the applicant could have been selected against the same. As the respondents have not processed the candidature of the applicant properly for the post of Postman, the OA is filed.

4. The contentions of the applicant are that in the 17.7.2014 notification issued to recruit candidates for Postman posts from the open market, one SC vacancy was shown, indicating that this vacancy was not filled up in the previous notification, against which the applicant could have been selected. In neighbouring divisions namely Secunderabad and Kurnool divisions, there were unfilled SC vacancies against which the applicant was eligible to be considered as per recruitment rules. Meritorious SC candidates were selected against SC vacancies instead of OC vacancies. Article 335 of the Constitution was violated.

5. Respondents state that the applicant appeared in the Postman LDCE exam held to fill up 3 OC and 1 OBC vacancy and was not qualified against OC but having secured 36 marks was eligible to be considered against SC vacancy as a surplus candidate in unfilled vacancies of neighbouring divisions. As there was no SC vacancy in the neighbouring divisions, he

could not be considered. Secunderabad and Kurnool divisions belong to different regions and are not neighbouring Divisions to Mahaboobnagar division. The 4 MTS vacancies earmarked for OC which were unfilled were thrown open to open market as per Recruitment Rules 2012. In respect of 17.7.2014 notification to fill up Postman/Mail Guard vacancies of 2011/2012, with break-up of 4 OC, 1 OBC, 1 SC and 1 Ex. Service Man exam was conducted, candidates selected and appointment orders under issue. There were no vacancies available in postman cadre for 2013/2014 to fill up. Applicant cannot be considered for 17.7.2014 notification since they were meant for MTS. Sri K. Venkataiah and Sri Murali Mohan were adjusted against SC vacancies of 2010 exam.

Applicant filed a rejoinder wherein he refers to annexure IX of the OA and to the RR of 1969 to bring home the point that the 5 unfilled vacancies of the years 2010, 2011 and 2012 were included in the notification issued on 17.7.2014. By adjusting Sri K. Venkataiah and Sri Muali Mohan, SC candidates, against the OC quota, there would have been totally 3 SC vacancies available which were incorrectly thrown open to the open market invoking RR-2011. Respondents have not followed the roster rules. Neighbouring division concept should be applied to the composite circle.

Respondents filed an undated additional reply once again stating that two SC candidates Sri K. Venkataiah and Sri Muali Mohan SC candidates were adjusted against SC vacancies.



6. Heard both the counsel and perused the pleadings on record.
7. I. Applicant appeared in the postman examination held for the vacancies of 2012 against notification issued in 2013. The number of vacancies community wise were 3 OC and 1 OBC. Applicant belongs to the SC community and he secured 36 marks and therefore he could not qualify for the OC vacancies on merit. However, he was eligible to be considered as a surplus qualified candidate in the neighbouring divisions of the parent division of Mahaboobnagar, to which the applicant belongs to. Applicant pleads that there were 7/8 SC vacancies unfilled for the year 2012 in Secunderabad/Kurnool divisions against which the applicant could have been considered. Secunderabad and Kurnool divisions are located in Hyderabad City/ Kurnool region whereas Mahaboobnagar division comes under Hyderabad region. Neighbouring division concept is applicable to the divisions within the region as vacancies are declared at the regional level. Hence the claim of the applicant that he was not considered for Secunderabad and Kurnool division vacancies would not hold good, which was fairly admitted by the Ld. Counsel for the applicant.

- II. In respect of 17.7.2014 vacancies, wherein unfilled vacancies of 2011 and 2012 were included, they are meant to be filled up by MTS staff and not by GDS officials. Applicant is a GDS official and hence, not eligible to be considered against the cited vacancies.

III. However, when it comes to the vacancies for the years 2006 to 2008 two SC candidates namely Sri K. Venkataiah and Sri Muali Mohan who appeared in the examination held on 28.2.2010 despite being directed vide docket order date 25.11.2020 to clearly state as to why they could not be selected against OC vacancies on merit in accordance with the relevant rules , the same was not answered except to repeat the same contention by the 4th respondent, that they were selected against SC vacancies. The dispute hinges on this aspect for the reason that if they were selected against available OC vacancies, the 2 SC vacancies would have been available for the 2013 notification to consider the candidature of the applicant for the post of postman. The memo dated 12.4.2010 appended at page 33 of the OA, where in the 2 SC officials cited figure, states that the GDS officials are selected through LDCE for postman vacancies under one half of the Merit quota for the vacancies that remained unfilled due to non qualifying of Group D officials in the same examination. This aspect needs further elaboration in regard to the marks obtained by the 2 SC candidates vis-à-vis those who competed in the exam and based on the marks obtained could they be adjusted against OC vacancies instead of SC vacancies. The Ld. Counsel for the Applicant has picked up the word merit quota and insisted that the 2 SC candidates were meritorious without any evidence of marks obtained by them with reference to the others. Merit is relative and it is to be seen as to whether the 2 SC candidates secured more marks than the OC candidates to be considered for the OC vacancies under reference. As the Ld. Counsel for the respondents and the 4th respondent were not able to answer this query raised repeatedly, it would be in the fitness of things to direct the respondents to examine the issue from the



aspect pointed out and take an appropriate decision based on applicable rules and law. The same shall be communicated by a reasonable and speaking order backed by full facts, within 3 months from the date of receipt of this order.



IV. With the above direction, the OA is disposed with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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