

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

**OA/020/00556/2017
with MA Nos.871/2017 & 342/2020**

HYDERABAD, this the 14th day of October, 2020



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

D.V.N.Satyanarayana Murthy S/o D.S.R.Anjaneyulu,
Aged 48 years, MTS, O/o Assistant Engineer, Postal
Civil Sub-Division, P.S.D. Building, Krishnalanka,
Vijayawada - 520013.

...Applicant

(By Advocate : Dr.P.B.Vijay Kumar)

Vs.

- 1.The Union of India, rep by its
Director General of Postal Services,
Ministry of Communication and IT,
Department of Posts, Sansad Marg, New Delhi.
2. The Chief Post Master General,
Telanana Postal Circle, Dak Sadan,
Abids, Hyderabad.
3. The Chief Engineer, Civil Headquarters,
Department of Posts, Dak Bhavan, 4th Floor,
Parliament Street, New Delhi-1100001.
4. The Superintendent Engineer (Civil),
Postal Civil Circle, Sion P.O. Building,
Mumbai-400022.
5. The Executive Engineer, Postal Civil
Division, Gandhi Nagar Post Office, Hyderabad.
6. The Superintendent Engineer (Civil),
Postal Civil Circle, 2nd Floor,
Bhaswanagudi HPO Building, Bangalore – 560004.
7. The Chief Post Master General,
Andhra Pradesh Postal Circle,
Vijayawada, Andhra Pradesh

....Respondents

(Respondents 6 & 7 were impleaded vide in MA No. 341/2020,
dt. 25.9.2020)

(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 has been filed in regard to the selection of the applicant as Junior Draughtsman.

3. Brief facts of the case are that the applicant was engaged as casual labour in the respondent organization on 01.09.1988 and was granted temporary status w.e.f. 29.11.1989. His services were regularized in Group D cadre on 31.10.2001. Pursuant to the implementation of the VI CPC recommendations, the cadre of Group D was abolished and upgraded to Group C cadre by pooling all the posts into one cadre i.e. MTS. DOPT also issued circulars to all the Departments to upgrade their respective Recruitment Rules accordingly. Applicant possesses ITI (Draughtsman) qualification and therefore, he has prayed for considering him to the post of Junior Draughtsman post, which is next higher grade to Group D cadre. He had also submitted a representation requesting respondents to amend the recruitment rules. As there was no fruitful result, he filed OA No. 523/2013 before this Tribunal praying for modifying the Recruitment Rules so that he can make an appropriate claim to the said post. The said OA was disposed by this Tribunal on 20.10.2014 with certain directions. As the orders of the Tribunal were not complied with, CP No.140/2015 was filed. In the meanwhile, respondents filed Writ Petition No. 35211/2016 before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, wherein the Hon'ble High Court, on 20.10.2016, passed an order of interim suspension of the order of this

Tribunal in WPMP No. 43396/2016 and based on the said order of the Hon'ble High Court, the CP was closed giving liberty to pursue remedies after the WP is decided.



Later, respondents issued Gazette notification dt.2.11.2016 modifying the Recruitment Rules with the nomenclature- Department of Post, Junior Engineer (Civil) in Civil Wing, Amendment Rules, 2016. Respondents intimated vide letter dt. 21/24.10.2016 that there are only 7 vacancies in the cadre of Junior Draughtsman (Civil) under the Circle and 13 point Roster is followed for the said vacancies; 5% of the posts are to be filled up by promotion from MTS; 3 posts out of the 7 have already been filled up and that there are no posts vacant for which the applicant can be considered considering his community and other factors. Later, another letter was issued on 16.11.2016, duly enclosing the earlier letter dt. 8.11.2016, stating that, it was not possible to consider promotion of the applicant at that stage, and his case shall be considered when the vacancies are available. Recording the above, WP No. 35211/2016 was dismissed on 28.02.2017. The applicant claims that there are total 12 posts of Junior Draughtsman under the control of the 4th respondent and only three candidates are working as per the replies given to him under the RTI Act in 2011 and 2012. He also made a representation to this effect to the 4th respondent on 16.02.2017. The applicant filed the OA aggrieved by the rejection of his request for appointment as Junior Draughtsman (Civil) vide the above communications.

4. Respondents in their reply statement stated that the applicant had submitted the provisional ITI certificate No.33731, but not final certificate.



The said certificate was sent for verification from the concerned authorities and the reply is still awaited. Even the applicant was also directed to submit the final certificate on 07.03.2018. It is stated that, as per the amended recruitment rules notified for the post of Junior Draughtsman (Civil) in Civil Wing on 02.11.2016, 5% of the said posts are reserved for MTS with Matriculation or equivalent qualification with certificate or Diploma in Draughtsman (Civil) of two years duration course from a recognized institute and having 10 years of regular service in the cadre of MTS. The respondents state that the recruitment rules have been revised as per the orders of this Tribunal in OA 523/2013 and further confirm that the appointing authority replied to the applicant on 21/24.10.2016 conveying that 3 incumbents are already occupying the posts of Junior Draughtsman (Civil) as on date. No vacancy is available in order to accommodate the applicant and therefore, no DPC could be held for promoting him and that the DPC would be convened in future as and when the vacancy arises. Applicant claims that there are 12 vacancies as per the replies of the respondents under RTI Act given in 2011-12 is not correct, in as much as the same was superseded by the letter dt. 29.09.2016 (Ex. VII). According to the said letter, there were 7 sanction posts under the Civil Wing, Mumbai and not 12 posts as claimed by the applicant. As per the Recruitment Rules, 95% of the 7 posts would work out to 6.65 posts and 5% of 7 is 0.35 posts, the later being less than 0.5 it is to be construed that there is no vacancy available for considering the candidature of the applicant. Besides, respondents aver that Junior Draughtsman cadre is a circle cadre and not an all India cadre. There are 56 posts at all India level. The applicant can be considered only for the Circle in which he is working.

5. The applicant has filed a rejoinder wherein he states that the respondents have not issued any letter showing that the vacancies indicated in the replies given by the respondents in the years 2011 and 2012 have been superseded. There is a Junior Draughtsman post vacant in the 2nd respondent office, for which the 4th respondent is the appointing authority.



The applicant states that pursuant to a notification dt. 18.04.2007 issued for departmental examination for the posts of Junior Engineers (Civil) & (Electrical), which cadre post is also under the control of the 4th respondent, the respondents had accommodated the candidates in the vacancies available in different Circles irrespective of circles they belong to and that the same yardstick could also be applied in respect of his promotion to the post of Junior Draughtsman (Civil). Applicant has also indicated in his rejoinder that there are 11 sanctioned vacancies in Bangalore Coordination Civil Circle as per the letter dt. 29.09.2016 filed along with reply as Ex. VII and in those vacant posts, no person is working either on promotion or direct recruitment quota. The said posts are inter-transferable and the 3rd respondent is competent to transfer the posts. Applicant prays that since there are posts vacant in the Bangalore Civil Circle, he could be considered against the vacant post. Respondents filed additional reply reiterating the contentions made in the reply statement.

Applicant filed MA No. 341/2020 seeking impleadment of respondents 6 & 7 stating that there are 13 posts lying vacant under the 6th respondent i.e. the Superintendent Engineer (Civil), Postal Civil Circle, Bangalore and the said MA has been allowed.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about the promotion of the applicant to the post of Junior Draughtsman (Civil). In the earlier round of litigation vide OA 523/2013, this Tribunal directed the respondents to modify/ revise the Recruitment Rules keeping in view DOPT OM dt. 24.03.2009 for including MTS cadre with ITI Draughtsman as feeder cadre for Junior Draughtsman and to consider the case of the applicant to the said post. Accordingly, the respondents partly complied with the order of this Tribunal and issued the notification dt. 2.11.2016 by introducing new Recruitment Rules, as per which, 95% of the Junior Draughtsman posts are reserved for Direct Recruitment and 5% for promotees. MTS employees with ITI qualification and 10 years experience can be considered for promotion to the post of Junior Draughtsman cadre. The applicant having possessed the ITI qualification as well as 10 years experience, claimed for promotion to the said post. Respondents stated that the vacancies were not available to consider the case of the applicant. However, the applicant has pointed that there are 11 vacancies in Bangalore Circle as is evident from the letter dt. 29.09.2016 filed along with the reply. The applicant also claimed that the 3rd respondent has the competency for inter-circle to transfer of posts. The pleading of the applicant is that the 3rd respondent may be directed to exercise such power to accommodate the applicant in any of the vacant posts.

II. The facts of the case do indicate that the applicant has got requisite qualification as well as experience. The only difficulty is the availability of vacancy for accommodating the applicant in the Circle in



which he is working. However, applicant has pointed out that there are 11 vacancies in Bangalore Postal Civil Circle for which he may be considered. He has also pointed out that the 3rd respondent has competency to transfer posts inter-se and appoint officials in the Junior Draughtsman cadre.



III. In view of the above submissions of the applicant, it would be appropriate to direct the respondents to examine the request of the applicant for promotion to the post of Junior Draughtsman (Civil) against any of the vacancies available in Bangalore Postal Civil Circle as per the relevant rules of the respondents organization and in view of the powers of the 3rd respondent in respect of transfer of posts, stated supra. This would enable the respondents organization to gain additional manpower in the said cadre and it would also resolve the grievance of the applicant. We are, therefore, of the view that such a decision would lead to a win-win situation and hence respondents may consider the case of the applicant to promote him to the post of Junior draught's man in accordance with revised Recruitment Rules and as per law. Time period allowed to implement the judgment is 4 months from the date of receipt of this order.

IV. With the above directions, the OA is disposed of, with no order as to costs. Pending MAs stands disposed.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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