

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01105/2016

Jabalpur, this Tuesday, the 27th day of October, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Vishal Kumar Sahu,
 aged about 50 years,
 Postman
 S/o Late Maniram Sahu,
 R/o Q.No.2 Type III GCF,
 PO Campus Jabalpur, (M.P.) 482011
 (By Advocate –Shri J.B. Singh)

-Applicant

V e r s u s

1. Union of India
 through Secretary,
 Department of Post,
 Dak Bhavan,
 1 Sansad Marg, New Delhi 110 001

2. Chief Postmaster General
 M.P. Circle Bhopal – 462015

3. Postmaster General
 Indore Region,
 Indore 452001

4. Sr. Superintendent of Post Offices,
 Jabalpur Division Jabalpur 482001 - **Respondents**
 (By Advocate –Shri Devendra Singh Baghel)
(Date of reserving the order: 25.09.2020)

ORDER

By Ramesh Singh Thakur, JM:-

This Original Application has been filed by the applicant challenging the order dated 02.03.2016 (Annexure A/3) issued by respondent No.4 and order dated 18.10.2016 (Annexure A/10) (issued by respondent No.2) whereby the respondents denied to promote the applicant on the post of Postal Assistant.

2. The applicant sought for the following relief:-

“8(i) To call for the entire record for the kind perusal of this Hon’ble Tribunal;

8(ii) Quash the order dated 02.03.2016 (Annexure A-3) passed by the Respondent No.4 and order dated 18.10.2016 (Annexure A-10) denying consideration of promotion to the post of Postal Assistant being qualified candidate despite availability of two (2) vacancies as on 31.03.2014 and Respondents may be directed to consider applicant’s promotion on the post of Postal Assistant against vacancies available on 31.03.2014;

8(iii) Any other order/orders which this Hon’ble Court deems fit and proper;

8(iv) Cost of the petition may also kindly be awarded.”



3. From the pleadings the case of the applicant is that the applicant was initially appointed as Postman w.e.f.24.12.2010. The applicant having been eligible, appeared in the examination for promotion to Postal Assistant cadre under departmental quota i.e. LGO examination 2014 held on 23.11.2014. The applicant was declared successful in the said examination which was declared on 03.07.2015 and the applicant was placed at 5th position in the consolidated list of surplus candidates of the entire circle stating no vacancies in OC category. The copy of the result dated 03.07.2015 (Annexure A/1).

The applicant submitted willingness for promotion in other Postal Division.

4. It is further submitted in the O.A. that when the applicant was not considered for promotion, the applicant made the representation to respondent No.4 on 25.01.2016 with the request that the applicant may be considered either in Jabalpur Division or Vidisha Division. The copy of the representation dated 25.01.2016 (Annexure A/2). In



response to the said representation dated 25.01.2016, the respondent No.4 has given a very formal reply vide letter dated 02.03.2016 wherein it is mentioned that the applicant's promotion cannot be considered due to the reasons that the candidature of the applicant cannot be considered for the future year vacancies. The copy of letter dated 02.03.2016 is as Annexure A/3. Thereafter the applicant applied for information under RTI Act. The respondent No.4 has intimated the vacancy in the same quota for the year 2013-14 and 2014-15. The copy of letter dated 29.03.2016 is annexed at Annexure A-4.

5. It has been further submitted by the applicant that two vacancies remained unfilled in the year 2013-14, as the applicant represented on 04.04.2016 to the Director Postal Services for consideration of promotion against the said vacancies but applicant has not been considered. Copy of representation dated 04.04.2016 is annexed as Annexure A/5. Thereafter made another representation dated 13.05.2016 to respondent No.3 but no avail. The copy of





representation dated 13.05.2016 is annexed as Annexure A/6. Now the respondents have gone for conducting the examination for the year 2015-16 as per notification dated 20.06.2016 which is annexed as Annexure A/7 without considering the applicant's grievance. The applicant had filed O.A. No.200/739/2016 before this Bench, wherein the respondents were directed to consider the representation. The copy of order dated 28.07.2016 Annexure A/8. Accordingly, the applicant preferred the representation to respondent No.2 on 05.08.2016. The copy of which is annexed as Annexure A/9. Ultimately the respondent No.2 has rejected the said representation on 18.10.2016 which is annexed as Annexure A/10.

6. The respondents have filed the short reply. The respondents have submitted that the applicant has appeared in the examination for the promotion to Postal Assistant Cadre under departmental quota i.e. LGO examination on 23.11.2014, in which the applicant has passed successfully and as per merit list of MP Circle, the applicant was placed

at serial no.5 and four other persons who were more meritorious than the applicant were above the applicant. It has been submitted by the replying respondents that two vacancies were vacant in Vidisha Division. Though the applicant has opted only Vidisha Division, despite the fact that each candidates ought to have three options. The copy of option form of surplus qualified candidates is at Annexure R/1 and other candidates who have opted atleast 3 options, the list showing above options by candidates is annexed as Annexure R/2. Since the consolidated list of MP circle in which the applicant was placed of Serial No.5 and persons who were at Serial No.1 and 3 were also opted Vidisha Division and belongs to same category and have been posted at Vidisha Division vide order dated 03.08.2015. The copy of memo dated 03.08.2015 is annexed at Annexure R/3. It has been specifically submitted by the replying respondents that as per vacancy available in Vidisha Division which has been filled up by Jaya Pratap Singh and Arvind Singh Sikarwar, there is no



vacancy is left in Vidisha Division. Therefore, the applicant cannot be considered for the next year promotion. It has been submitted by the replying respondents that in view of the order passed by Tribunal in O.A. No.200/739/2016 the competent authority has considered and examined the matter as well as representation of the applicant and passed the well reasoned speaking order by offering full opportunity to the applicant vide order dated 18.10.2016 (Annexure A/10).



7. The applicant has filed the rejoinder to the reply filed by the replying respondents. It has been submitted by the applicant that the respondents have not truly gone through the submissions made by the applicant in the representation and as per Annexure A/4 two vacancies were available. It has been submitted by the applicant that the applicant has no grievance for his promotion in Vidisha Division. The applicant's grievance is that he has not been promoted in his home division despite

availability of two vacancies in the year 2014, which has been confirmed by Annexure A/4.

8. We have heard the counsel for both the parties and have also gone through the pleadings and documents with the O.A.



9. It is admitted fact that the applicant was initially appointed as Postman w.e.f.24.12.2010. The applicant having been eligible appeared in the examination for promotion to the post of Postal Assistant Cadre in the year 2014. The applicant was declared successful and applicant was placed at 5th position in the consolidated list of surplus candidates of the entire circle stating no vacancies in OC category. The contention of the applicant is that the representation filed by the applicant while exercising the option has not been considered being a surplus in Vidhisha Division and the respondent department has not allotted Jabalpur Division despite the vacancy available in the Division. Further contention of the applicant is that the

applicant should have been considered for the future vacancy in Jabalpur Division.

10. On the other side the contention of the respondent-department is that though the applicant was at Serial no.5 in the consolidated list of Circle, the applicant had submitted his option for Vidhisha Division despite the fact that each candidate ought to have opted for three options but the applicant had opted only Vidhisha Division. The copy of option has been annexed as Annexure R/1. It has been specifically submitted by the replying respondents that two other person had also opted for Vidhisha Division namely Jaya Pratap Singh and Arvind Singh Sikarwar and there is no vacancy left for the applicant. It has been specifically submitted by the replying respondents that the direction given by the Tribunal in O.A. No.200/739/2016 has been considered and examined as per the representation of the applicant and passed a reasoned and speaking order by giving full opportunity to the applicant vide order dated 18.10.2016 (Annexure A/10).



11. It is crystal clear from the Annexure R/1 that the applicant had opted only for Vidhisha Division and no other option has been mentioned. Replying respondents have specifically submitted in their reply that two persons namely Jaya Pratap Singh and Arvind Singh Sikarwar have opted for Vidhisha Division and they are higher in merit than the applicant. So the persons higher in merit have been given the appointment in Vidhisha Division. So, the applicant has not been considered for Vidhisha Division. The contention regarding the adjustment in the future vacancy, the respondents has clearly spelt out that the applicant cannot be considered for next promotion due to the fact that the applications are to be invited afresh. Though the applicant has made his arguments regarding the vacant position in his home Division but we are of the view that the vacancy is to be filled up in the next year. So, we are of the view that the impugned order passed by the respondent-department is legal and valid in the eye of law and the respondent-department has fully explained the



circumstances in which the impugned order has been passed especially due to the fact that as per Annexure R/1 i.e. Vidhisha Division only and two persons have been given the appointment who were higher in merit.



12. Resultantly we do not find any reasons to interfere with the impugned order passed by the respondent-department.

13. Hence O.A. is dismissed. No order as to costs.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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