

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 37 1987
T.A. No.

DATE OF DECISION 9.1.1987

Shri Subhash Chander & Others ~~XXXXXXXX~~ Applicants

Shri Sant Lal Applicants
Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent s

None Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether to be circulated to all the Benches? Yes

(Kaushal Kumar)
Member
9.1.87

(K. Madhava Reddy)
Chairman

REGN. NO. OA 37/87Dated: 9.1.1987

Shri Subhash Chander & Others Applicants

Vs.

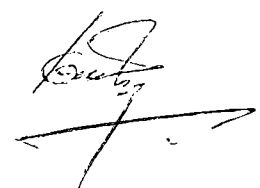
Union of India & Others Respondents

CORAM: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the applicants Shri Sant Lal, counsel.
For the Respondents None.

(Judgement of the Bench delivered by Hon'ble Mr.
Justice K. Madhava Reddy, Chairman)

This is an application against the order of the Respondents proposing not to hold the examination in pursuance to letter No. R&E/R-9/86 dated 16.12.1986 (Annexure A-1) and the same is sought to be questioned on the ground that it contravenes the instructions issued in letter No. 47/5/80-SPB-I/Pt. dated 7.4.80 (Annexure A-3). It is the case of the applicants that they are Extra Departmental Agents of the Department of Posts and whenever vacancies in Class IV arise such vacancies should be first filled in by promotion of Extra Departmental Agents and for that purpose the prescribed qualifying examination should be held. If sufficient number of Extra Departmental Agents do not qualify, a Supplementary Examination for Extra Departmental candidates should be held for filling up those vacancies before throwing open the vacancies to the other category of employees. There are further instructions in this behalf in the aforesaid letter. As the grievance ^{is} of the applicants/that these instructions are contravened, it



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would be necessary to examine what exactly it ordains. That letter reads as under:-

" INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE DIRECTOR GENERAL POSTS AND TELEGRAPHS

No.47/5/80-SPB-I/Pt. New Delhi-110001 dated the 7.4.8

To

All Heads of Postal circles.

Subject:- Relaxation of instructions regarding absorption of EDAs as postmen/Class IV.

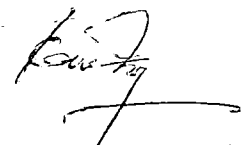
Sir,

I am directed to say that in a recent meeting with Union representatives regarding absorption of EDAs following decisions have been taken. These revised instructions are in supersession of earlier instructions on the subject and these will be applicable for the ensuing departmental examination.

(i) The age limit of EDAs is raised from 40 to 42 for appearing in examinations for promotion to postman/class-IV. In case of SC/ST this limit will be 47 years.

(ii) The number of ED candidates appearing for the qualifying examination for recruitment to the departmental cadres will be normally limited to five times the number of vacancies. However, the candidates will be selected only to the extent of vacancies announced and no waiting list would be maintained. If sufficient number of ED candidates do not qualify, a supplementary examination for ED candidates would be held, before throwing open the vacancies to other category of employees.

(iii) In case where vacancies remain unfilled in departmental cadres from ED candidates, casual labour candidates etc. of any division under the existing orders and if such of these vacancies are to be thrown open to the candidates of E/exchange, these vacancies may be first offered to the eligible candidates of neighbouring division before approaching the E/Exchanges. For this purpose in the case of unfilled vacancies in RMS, they may be thrown open to the postal division where the appointing unit of RMS sub division is situated and vice versa. In the case of a PSD or RMS the unfilled vacancies may be given to



the postal division or RMS Division from which their clerical or Class IV are deputed as the case may be. Before considering EDAs of neighbouring divisions it should be ensured that no eligible official is available in the recruiting Divisions.

These orders will take effect from the date of issue.

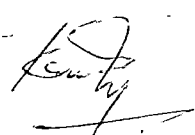
Yours faithfully,

Sd/-

(J. M. PANJAWANI)

Assistant Director General (SPN) "

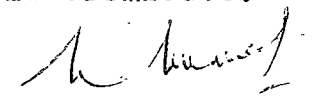
2. The grievance of the applicants is that the examination should be held first confined to the Extra Departmental Agents. If it is thrown open to all including Casual Labours and part-time employees, the applicants would be deprived^{of} the benefit of these instructions. Actually the applicants and others are allotted to work in different Divisions and therefore the examination should be held Division-wise. The question whether the examination for other Divisions is being held in accordance with these instructions or not, need not be considered in this application at the instance of the applicants for we do not find any contravention of the Rules which affect the rights of the applicants. Before the vacancies in the Division in which the applicants are working, are thrown open to the Extra Departmental Agents of other Divisions, as laid down under the instructions, not only Extra Departmental Agents of the particular Division in which the vacancies exist but even casual labour candidates etc. of that particular Division have to be given the opportunity to appear for and qualify themselves at the said examination. If the vacancies remain unfilled even after holding such an examination, only then these vacancies are required to be first offered to the eligible candidates of neighbouring Division before approaching the Employment Exchanges. Obviously, the applicants' right would be affected only if any irregularity is committed in holding

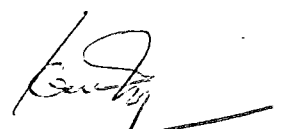


the examination and not until then. That contingency has not occurred so far. We do not find any merit in the applicants' contention that even in the first instance the examination should be thrown open to the Extra Departmental Agents of other Divisions or that casual labour candidates of the same Division should not be permitted to take the examination held after the supplemental examination failed to produce the requisite number of qualified Extra Departmental candidates.

3. The applicants also sought to contend that these instructions in so far as they exclude the Extra Departmental Agents of other Divisions from the examination are discriminatory and violative of Articles 14 & 16 of the Constitution. This ground has not been raised in the application. No amendment of the application was even sought earlier to raise such a ground. We cannot allow the same to be raised so casually at the hearing. Nothing said herein would affect the right of the applicant to challenge the vires of the Rules in a properly framed application.

4. So far as this application is concerned, it is dismissed.


(Kaushal Kumar)
Member
9.1.87


(K. Madhava Reddy)
Chairman
9.1.87