

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 31st DAY OF JULY, 2001

Original Application No.614 of 1996

CORAM

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Vikram Singh, S/o Suresh Chandra Jhawar  
R/o Village & Post Sahaswan,  
district Badaun

.... Applicant

(By Adv: Shri Manoj Upadhya)

Versus

1. Union of India through Secretary  
Department of Post, Ministry of  
Communication, Dak Bhawan, Parliament Street,  
New Delhi.
2. Chief Post Master General  
U.P.Circle Hazratganj, Lucknow.
3. Post Master General  
Bareilly region, Bareilly.
4. Supdt. of Post Offices,  
Badaun Division, Badaun.

....Respondents

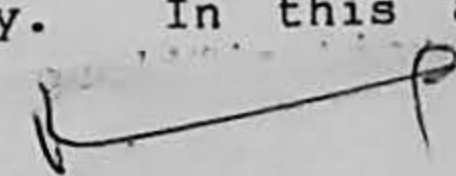
(By Adv:Shri S.C.Tripathi)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 the applicant has challenged the order dated 27.3.1996 (Annexure CA 5) by which applicant was communicated that he cannot be appointed as Postal Assistant as he passed intermediate examination with vocational subjects. Reference has also been given to the letter of ~~the~~ Post Master General on whose direction the impugned order was passed.

The facts giving rise to this application are that applications were invited for appointment as Postal Assistants in Badaun postal division by advertisement dated 27.5.1995 published in Amar Ujala Hindi daily published from Bareilly. In this advertisement



the minimum educational qualification mentioned was intermediate 10 + 2 or equivalent. The applicant had passed intermediate examination in 1991 from the Board of High school and intermediate education Uttar Pradesh. He had also passed B.Sc. from Rohilkhand University Bareilly in 1994. The applicant applied for the post. He appeared in written test and viva-voce and was selected for appointment. The result of selection was declared on 22.11.1995 in which the name of the applicant was mentioned at sl.no.2. Applicant also completed two weeks practical training in the post office. However, before he could be sent to Sahranpur for completing training course, by impugned order dated 27.3.1996 he was communicated that he cannot be appointed. The learned counsel for the applicant has submitted that in the advertisement there was <sup>no</sup> mention that only such candidates who have passed intermediate examination, without opting vocational subjects, shall be eligible to apply. As per advertisement the applicant was fully qualified and his selection has been cancelled in illegal and arbitrary manner. The learned counsel for the applicant has also placed before us a unreported judgement of this Tribunal dated 16.8.2000 passed in OA No. 613/96 by which the OA filed by Noorul Hafeez was allowed and the respondents were directed to reconsider the candidature of the applicant in the light of the observations made in the judgement within three months. Learned counsel has submitted that Noorul Hafeez was another candidate mentioned in the impugned order dated 27.3.1996. It is submitted that applicant is also entitled for the same relief. It is submitted that on all material questions this OA filed by <sup>applicant</sup> is similar to that of <sup>op</sup> Noorul Hafeez, except that Noorul Hafeez has not completed two weeks practical training.



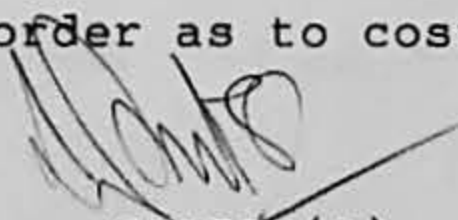
Shri S.C.Tripathi learned counsel appearing for the respondents, on the other hand, submitted that the impugned order dated 27.3.1996 was passed on the basis of the letter of the Post Master General dated 22.3.1996. It was specifically directed that the candidates having passed intermediate examination with vocational subjects may not be appointed. Learned counsel has also placed before us the letter dated 14.2.1996 issued from the office of the Post Master General which states that in the schedule to the department of Posts (Postal Assistants & SAs) Recruitment Rules 1990 (hereinafter referred to as a rule) against the post of PAs and SAs. In column no.8 the word 'excluding vocational schemes' were added. thus the candidates having the educational qualification of 10 + 2 with vocational scheme were not eligible for appointment as PA or SA. Shri Tripathi has submitted that the impugned order does not suffer from any error of law. There could be no estoppel against the statute and even if the fact was not mentioned in the advertisement applicants could not be appointed in view of the position of the schedule of the above rules mentioned above.

We have carefully considered the submissions made by the counsel for the parties. It is true that if by error a statutory requirement is not mentioned in the advertisement it could not create estoppel and a statutory requirement could not be ignored. But in the present case, the position is altogether different. In column no.8 of the schedule of Rules of 1990 words 'excluding vocational scheme' were added by amendment on

6.2.1996. It is not disputed in this case that advertisement was published on 27.5.1995 and result of the selection was declared on 22.11.1995. thus the entire selection proceedings were completed before the amendment was made in schedule of the <sup>Rules</sup> of 1990. In these circumstances, the submission of the learned counsel for the respondents cannot be accepted. The Post Master General on the basis of the amendment made on 6.2.1996 could not issue direction prohibiting appointment of the applicant who had passed intermediate with vocational subjects, as selection was already completed. The applicant was <sup>well</sup> ~~still~~ within his rights to apply for selection and appointment as in the advertisement there was no such requirement that the applicant should be intermediate with non-vocational subjects.

This Tribunal vide judgement dated 16.8.2000 passed in OA 613/96 which was also filed against the impugned order dated 27.3.1996 granted relief to the another candidate Noorul Hafeez. We are in respectful agreement with the judgement. The applicant is entitled for relief.

The application is accordingly allowed. The impugned order dated 27.3.1996 is quashed. The respondents are directed to appoint the applicant after he completes the requisite training for which he shall be provided opportunity at the earliest. This order shall be complied with within a period of 6 months. There will be no order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 31.7.2001