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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 31st day of August, 2007.

Original Application No. 1641 of 2005.

Hon'ble Mr. Ashok S Karamadi, Member-J
Hon'ble Mr. P.K. Chatterji, Member-A

Amar Nath Verma, S/o Sri V.N. Verma, R/o Mohalla
Badna Purapar, P.O. Sikandrapur, Distt: Balia.

..... Applicant
By Adv: Sri A. Srivastava

V E R S U S

1. The Post Master General, Gorakhpur Region, Gorakhpur.
2. Superintendent of Post Office, Ballia Division, Ballia.
3. Union of India through Secretary, M/O Post and Telecommunication Deptt. Of Post, Dak Bhawan, New Delhi.

..... Respondents
By Adv: Sri S. Singh

O R D E R
By Hon'ble Mr. P.K. Chatterji, Member-A

The applicant works in the Department of Post under the SPO, Balia Division as Extra Departmental Mail Carrier (EDMC). There is a scheme in the department for promotion of EDAs (now GDS Agents) to Group 'D' post under 25% quota of vacancy EDAs are given promotion on the basis of seniority. There is also a channel of filling up the Group 'D' by direct recruitment from outsiders wherein the EDAs can also participate as an outside. In the postal division a seniority list is maintained of the EDAs and on the

meat

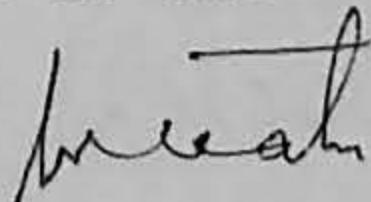
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basis of their seniority they are promoted to Group 'D' official against the 25% quota.

2. It has been alleged by the applicant in para 4.6 of the OA that although 19 vacancies of Postman and 30 vacancies of Group 'D' were available under the control of respondent No. 4 no efforts was made by him to promote the GDS employees against the vacant post under the 25% quota. On the other hand the same GDS employees were being utilized by respondent No. 4 against the vacant posts on an ad-hoc appointment. It is further alleged by the applicant that due to this lack of initiative by the respondents the GDS employees become the sufferer. As per rule the GDS Agents can be considered for promotion against the departmental vaccines in 25% quota only upto the age of 50. Due to such belated action on the part of the respondents some GDS Agents are deprived of their legitimate promotion as they become overage for such consideration.

3. The applicant has referred to the DG(Post) letter No. 47-11/93-SPB-1 dated 25.08.1993 (Annexure A-1) in which the DG has instructed all the units to ensure holding of DPCs for promotion of GDS Agents to Group 'D' in time so that eligible candidates do not become overage. The circular is as follows:

"Departmental Promotion Committee for promotion to Group 'D' - It has been reported to the Directorate that in number of Circles, the Departmental Promotion Committee for ED Agents to Group 'D' is not being held in time. As the



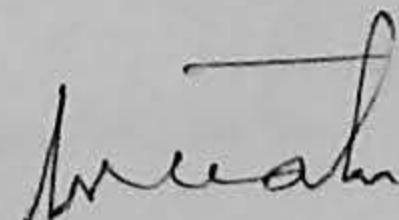
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maximum age prescribed for promotion of ED Agents to Group 'D' is 50 years, some of the ED Agents lost their chance to get promoted as Group 'D'. It is, therefore, requested that the DPCs for promotion of ED Agents to Group 'D' should be held as per the prescribed schedule, particularly keeping in view those cases where some of the ED Agents due for promotion are nearing the age of 50 years as prescribed in the Recruitment Rules."

4. The applicant has also produced the circular of the respondents indicating his seniority amongst the ED Agents. The circular dated 05.03.2004 by the SPO Balia (Annexure A-3) indicates the applicant's position at Sl. No. 13 of the seniority list. Therefore the applicant argued that if the DPC was held in time against the available vacancy he would have easily been promoted as a Departmental Group 'D'. By not holding the DPC the respondents have denied him promotion. By making these submissions the applicant has prayed for the following reliefs:

- "i. This Hon'ble Court may graciously be pleased to direct the respondent No. 2 to promote the applicant as regular Postman/Group 'D' on regular basis.
- ii. This Hon'ble Court may graciously be pleased to direct the respondents to hold Departmental Promotion Committee for promotion of Postman/Group 'D' in the near future and the applicant may be considered for his promotion in the same.
- iii. Any other direction as may deem fit and proper in the circumstances of the case.
- iv. Award cost of the Original Application.

5. The respondents have refuted the allegation. It has been stated by them in para 7 that the DPC for promotion of GDS Agents was held on 20.07.2005. If the applicant was eligible as per seniority and on the basis of the available vacancies he would have been promoted. This would therefore disprove

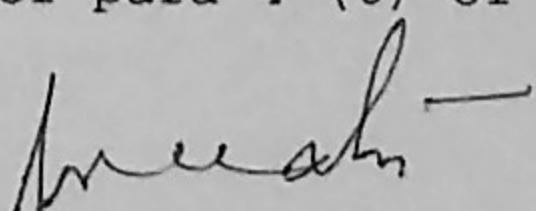


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the allegation of the applicant that due to not holding the DPC in time he was denied his promotion.

6. The respondents have also stated that besides the 25% quota for promotion there is also another scope of GDS Agents for promotion as an outsider through an examination. The applicant appeared in such an examination on 04.06.2006 but was unsuccessful. The respondents have denied in para 16 of the reply that DPCs were not being held regularly. It has been stated by the respondents that for promotion under seniority according to 25% quota the GDS Agents are considered in their turn. The applicant has also to wait for his turn and if in this way he exceeds the admissible age the respondents could not help him dehors the rules.

7. The respondents have not disputed that the applicant was engaged from time to time as a departmental Group 'D' official on ad-hoc basis against temporary and short term vacancy. Such vacancies may arise due to different factors including leave of the regular incumbents. That so many GDS Agents were being engaged in ad-hoc capacity would not automatically prove that there were enough vacancies to offer promotion to the applicant according to his seniority and in his turn. At para 7 of the parawise reply the respondents denied the contents of para 4 (6) of the



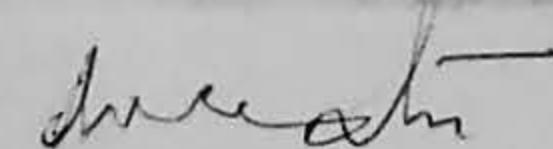
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OA wherein it was stated that there were 19 vacancies of Postman and 30 vacancies of Group 'D'.

8. The respondents have also further stated that every effort was made to ensure that the DPC for promotion of GDS agents were held in time. Inspite of such efforts some times some GDS Agents missed the selection as there are not enough vacancies within the given quota before the agents attain the age of 50. However, respondents could do nothing in the matter as there was no provision for special consideration for such GDS Agents who are about to cross the age limit. Naturally the respondents could not overstep the rules.

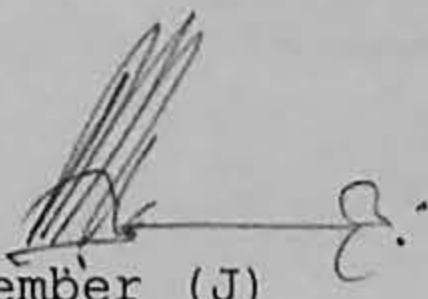
9. We have heard the learned counsel for the parties, the arguments were more or less on the above lines as reflected in their respective submissions. After going through the pleadings and hearing the arguments, we are of the view that it would not be possible to provide the relief prayed for. Accepting the contention of the learned counsel for the respondents we are of the view that the contention raised by the applicant does not call for any interference for grant of the relief claimed by the applicant and as such the OA is dismissed.

No cost.



Member (A)

/pc/



Member (J)