

**Central Administrative Tribunal
Principal Bench**



**OA No.3516/2018
MA No.3943/2018
MA No.577/2020**

New Delhi, this the 17th day of March, 2021

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Avnit
 S/o Shri Shishpal,
 Aged 23 years,
 R/o Village Bajitpur-Saboli,
 P.O. Nathupur, District Sonipat,
 Haryana-131029
 Appointment, 'C'.

...Applicant

(By Advocate : Shri U. Srivastava)

Versus

1. Union of India through
 The Secretary,
 Ministry of Communications,
 Dak Bhawan, Sansad Marg,
 New Delhi-110001.
2. Department of Posts,
 Through, The Secretary,
 Dak Bhawan, Sansad Marg,
 New Delhi-110001.
3. The Chi-ef Post Master General,
 Delhi Circle,
 Department of Posts,
 Meghdoot Bhawan, Link Road,
 New Delhi-110001.

...Respondents

(By Advocate : Shri Kumar Onkareshwar)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy:**

The respondents initiated the process for appointment of Postman/Mail Guard in the Department of Posts in the year 2014. The applicant was one of the candidates. A written test was conducted on 17.05.2017 and the results were published on 05.01.2018. A list of 740 selected candidates was published, covering all the categories. The name of the applicant did not figure therein.

2. It is stated that the applicant secured 79 marks and the last candidate in the General Category was the one who secured 81 marks. He filed this OA with a prayer to direct the respondents to operate the waiting list. According to the applicant, number of the selected candidates did not report or they were found medically unfit and that the respondents were under obligation to operate the waiting list. Reliance is placed upon an order dated 21.02.2014 issued by the Ministry of Communications, Department of Posts.

3. Respondents filed a detailed counter affidavit. It is stated that after the list of 740 candidates were



published, it emerged that 50 candidates either did not report or were found medically unfit. The wait list of 50 candidates is stated to have been issued and that the same was operated. It is stated that the name of the applicant did not figure therein and accordingly, it was not mentioned.

4. We heard Mr. U. Srivastava, learned counsel for the applicant and Mr. Onkareshwar, learned counsel for the respondents.

5. The basic facts are not in dispute. The name of the applicant did not figure in the list of 740 candidates. Since he was in the border of selection, he made an endeavour to get the waiting list operated. Even the order passed by the Department on 21.02.2014 provides for this.

6. On page 11 of the counter affidavit, the respondents stated as under :-

(xv) It is also to inform that status of appointment of Postman/Mail Guard 2014 has been received from Division/Units of Delhi Circle and as per their reports 50 vacancies were arisen as a result of (i) some candidates refused to join, (ii) some candidates found medically unfit and (iii) some candidates did not respond to final notice. Accordingly, result of 50 candidates from waiting list for appointment on the post



of Postman/Mail Guard for which online examination was conducted from 17.05.2017 to 21.05.2017 had been declared by the circle vides Memo No.R&E/R-1/AD Confidential-1/2018, dated 12.10.2018. The list of selected candidates had also been uploaded on India Post website www.indiapost.gov.in web link <http://delhi.postalcareers.in> for the information of the candidates.”

From this, it is evident that the respondents have operated the waiting list upto 50 candidates. A copy of the same is filed as Annexure-R-VII. A perusal of the same discloses that it contained 21 candidates from General Category. Out of them, candidates at Sl. No.1 &2 are those who secured 81 and 80 marks respectively. Rest of the 19 candidates are those who secured 79 marks. There are some more candidates who secured 79 marks and that includes the applicant. The respondents have taken into account, the Date of Birth i.e. age, whenever the tie occurs on account of the candidates securing the same marks. The date of birth of the applicant is 30.06.1995 whereas the date of birth of the last candidate who secured 79 marks and who figured in the waiting list of 50 candidates is the one with 06.02.1993 The applicant being younger in age, was not included in the list. Infact, there are many others with



79 marks above him, from the point of view of date of birth.

7. Though the learned counsel for the applicant argued that out of 50 candidates in the waiting list, 11 have not joined, we cannot direct the respondents to operate the waiting list in the second phase.

8. We do not find any merit in the OA and the same is accordingly, dismissed. There shall be no order as to costs.

All pending MAs shall stand disposed of.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/rk