



## CENTRAL ADMINISTRATIVE TRIBUNAL KOLKATA BENCH, KOLKATA

Date of Order: 14.09.2021

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

OA/350/1365/2021 DIPANGSHU DE

OA/350/1369/2021 SAIKAT DAS

OA/350/1370/2021 SAYAN DUTTA

OA/350/1371/2021 MONICA DAS

.....Applicants.



VERSUS

1. Union of India, Service through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Accounts Officer (Postal Accounts-Administration), Ministry of Communication, Department of Post (Postal Accounts Wing), 441A, 4<sup>th</sup> Floor, Dak Bhawan, Sansad Marg, New Delhi-110001.
3. The General Manager (Postal Accounts and Finance), West Bengal Circle, C. R. Avenue, Kolkata-700012.
4. The Director of Accounts (Postal), Mahanadi Vihar, Cuttack, Orissa-753004.
5. The Director, Staff Selection Commission, Kendriya Karyalay Parisar, Lodhi road, New Delhi-110003.
6. The Regional Director, Staff Selection Commission (Eastern Region), 1<sup>st</sup> MSO Building, 8<sup>th</sup> Floor, Nizam Palace, 234/4, AJC Bose Road, Kolkata-700020.
7. The Deputy Director General (Postal Accounts and Finance) Dak Bhawan, Sansad Marg, New Delhi-110001.
8. The Secretary, Department of Personnel and Training, Ministry of Personnel, Public grievances and Pensions, Government of India, North Block, New Delhi-110001.

.....Respondents

9. Mr. Pritam Debnath, bearing Roll No, 4405011121 in the CGLE, 2018 and selected as Junior Accountant in Kolkata Postal Account Office, service through the General Manager (Finance), West Bengal Circle, C. R. Avenue, Kolkata-700012. (private respondents in O.A 1365/21)
9. Mr. Subhajit Paul, bearing Roll No. 4402011842 in the CGLE, 2018 and selected as Junior Accountant in Kolkata Postal Account Office,

service through the General Manager (Finance), West Bengal Circle, C.R. Avenue, Kolkata – 700012. Private respondents in OA. 1369/21

9. Mr. Afzal Kabir, bearing Roll No. 44100064127 in the CGLE, 2018 and selected as Junior Accountant in Kolkata Postal Account Office, service through the General Manager (Finance), West Bengal Circle, C.R. Avenue, Kolkata – 700012. Private respondents in OA. 1371/21

9. Mr. Nabarun Paul, bearing Roll No. 4410002994 in the CGLE, 2018 and selected as Junior Accountant in Kolkata Postal Account Office, service through the General Manager (Finance), West Bengal Circle, C.R. Avenue, Kolkata – 700012. OA. 1370/21

--Private Respondents



For The Applicant(s): Mr. A. Chakraborty, counsel

Ms. P. Mondal, counsel

For The Respondent(s): Mr. K. K. Ganguly, counsel

### ORDER (O R A L) :

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsel for both sides.

Due to parity in the nature of grievance, facts pleaded and relief claimed, these cases are being heard out analogously, upon due notice, and with consent of all the sides, to be disposed of by this common order.

3. For the sake of brevity, facts of OA. No. 1365/2021 is being delineated and discussed hereunder:

4. This application has been preferred to seek the following reliefs:

*" (a) The Office Order being F. No. 2(05)/2018/PA Admn. I/4789 dated 09/10.08.2021 issued by the respondent no. 2 allocating the posting of the applicant in Junior Accountant Cadre under respondent No. 4 at Cuttack PAO is not tenable in the eye of law and as such the same may be quashed.*

*(b) The Office Order being F. No. 2(05)/2018/PA Admn. I/4802 dated 09/10.08.2021 issued by the respondent no. 2 allocating the posting of the private respondent and others in Junior Accountant Cadre under*

respondent No. 3 Kolkata PAO is not tenable in the eye of law and as such the same may be quashed.

(c) An order do issue directing the respondents to cause allocation of posting of the candidates in Junior Accountant Cadre by strictly following the merit cum preference basis and thereby an Order do issue directing the respondents to allocate the candidature of the applicant to the respondent no. 3 in terms of his first/higher preference in Junior Accountant Cadre at Kolkata Postal Account Office under the respondent No. 3 at an earliest.

(d) An order do issue directing the respondents to modify the letter of appointment dated 18.08.2021 issued in favour of the applicant to the extent of his allocation of posting under respondent no. 4 and thereby issue a letter of appointment posting him in the Cadre of Junior Accountant at Kolkata PAO under respondent no. 3 at an earliest.

(e) Such further or other Order or Orders be passed and/or Direction or Directions be given as Your Lordships may deem fit and proper."



5. At hearing, ld. counsel for the applicant would place a Department of Post instructions dated 28.05.2021 in regard to, **State Wise Preference in respect of eligible candidates of CGLE-2018 of Group 'C' in JA cadre**, which reads as under:

**"Sub : State Wise Preference in respect of eligible candidates of CGLE-2018 of Group 'C' in JA cadre.**

While filling up the proforma for **State Wise Preferences (SWP)** the following may be kept in mind:

- (i) The allocation to the Postal Accounts Office (PAO) would be with reference to the rank obtained in the CGLE-2018 exam vis-a-vis preferences given and vacancies available, in the respective category.
- (ii) Xxxx
- (iii) xxxx
- (iv) The allocation of the candidates eligible under PH category shall be made in accordance with reference to the rank obtained in the CGLE-2018 exam vis-a-vis preferences given and vacancies available in the respective category, as per the instructions contained in DoP&T OM dated 10th May 1990 and 13th March 2002.
- (v) The dossiers would be sent to the Postal Accounts Office, as per the preference filled up and existence of vacancies in the relevant category after completion of allocation process.
- (vi) The allocation will be strictly with reference to the rank obtained in the CGLE-2018 exam e.g. if two or more candidates of a category give preference for a particular state then priority would be given to the candidate with the higher rank and so on and so forth.
- (vii) In case the candidate gives fewer preferences/does not give any preference at all or per their vacancies as per their preferences are not available, due to preference made by the candidate having higher ranks or no vacancy existing in their respective category, in such scenario their dossier shall be liable to be sent to any of the Postal Accounts Office where vacancies exists
- (viii) The state wise preferences once given shall be final and cannot be altered/changed at a later stage.

13

- (ix) The candidates, in whose case the SWP is not received by the due date, it shall be deemed as no preference have been furnished and their dossiers shall be liable to be sent to any of the Postal Accounts Office where the vacancies exists after allocation of candidates who have furnished the SWP."

Ld. counsel for the applicant would further brings our attention the draft OM of DOPT dated 04.06.2010, which reads as under:

### "DRAFT OFFICE MEMORANDUM

**Subject : Allocation of zones to Inspectors (Central Excise) – Implementation of the orders of the Central Administrative Tribunal in the matter of Shri Surender Singh vs. Uol & Others{O.A. No. 3494/2009}.**

The undersigned is directed to say that the Central Administrative Tribunal(CAT), New Delhi in its Order dated 03/12/2009 in O.A. No. 3494/2009[Shri Surender Singh v. Uol & Others], inter alia, directed the Department of Personnel and Training to consider the representation of Shri Surender Singh dated 04/08/2009 and decide the same.

xxxxxxxxxxxxxx

That the reserved category candidates shown as own merit candidates and included in the list as general category candidates are really not own merit candidates inasmuch as they could be allotted cadre/service/zone of higher preference only after availing relaxation/concession. This, according to him, has resulted into discrimination against him.

xxxxxxx

6. The Department of Revenue allots the zones to selected candidates on the merit-cum-preference basis. The Department calls for options/preferences from all the selected candidates and allots the zones to them strictly as per their merit and preference, subject to availability of vacancies in the relevant zone/category. Thus, a candidate with higher rank gets the zone of his higher preference.

xxxxxxxxxx

11. Keeping all aspects in view, it is suggested that after the selection process for the post is completed by the Staff Selection Commission, the Commission should arrange the candidates in the order of merit as disclosed by the aggregate marks finally awarded to each candidate. Thereafter, the Commission should prepare a list of candidates to be recommended against unreserved vacancies and separate lists of candidates to be recommended against vacancies reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The candidates belonging to the Scheduled Castes, Scheduled Tribes and the Other Backward Classes who have not availed themselves of any of the concessions or relaxation in the eligibility or the selection criteria, at any stage of the examination and who after taking into account the general qualifying standards are found fit for recommendation by the Commission should be included in the list of candidates to be recommended against unreserved vacancies. The number of candidates recommended by the Commission, in the first instance, should be equal to the total number of vacancies reduced by the number of candidates belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes included in the list of candidates to be recommended against unreserved vacancies. Allocation of zones to candidates recommended against unreserved vacancies may then be made by the Department of Revenue strictly by following the principle of merit-cum-preference. However, candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward' Classes recommended against



unreserved vacancies may be adjusted against reserved vacancies if by doing so, they get the zones of their higher preference. Thereafter, the candidates recommended against the vacancies reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes may be allocated zones strictly by following the principle of merit-cum-preference.

12. After completion of the above exercise, it is possible that the number of candidates allocated against unreserved vacancies and reserved vacancies of each category may be less than the number of vacancies under these categories. The Government should inform the Commission the number of unreserved vacancies and reserved vacancies of each category which have thus remained unfilled and unallocated. Thereafter the Commission shall declare a consolidated reserve list of candidates which will include candidates from general and reserved categories ranking in order of merit below the last recommended candidate under each category. The number of candidates in general category included in this list will be equal to the number of reserved category candidates who were included in the first list as own merit candidates but adjusted against reserved vacancies at the time of allocation of zones. Amongst the reserved categories, the number of candidates from each of the Scheduled Caste, the Scheduled Tribe and the Other Backward Class categories in the reserve list will be equal to the respective number of reserved vacancies which have remained unfilled/ unallocated. The candidates recommended as above may be allocated by the Department of Revenue to the zones by applying the principle of preference-cum-merit in each category against the vacancies which have remained unfilled/unallocated.



13. While the procedure as detailed in para 11 and 12 above may be adopted for future recruitments, it is noted that the Commission has already recommended the names of candidates on the basis of the Examination for the year 2006 as per existing practice. In this case, the recommended candidates may be allocated zones following the procedure of allocation of zones as suggested in para 11 above. In this process, some of the SC/ST/OBC candidates recommended by the Commission against unreserved vacancies would get adjusted against reserved vacancies and some unreserved vacancies would remain unallocated and equal number of SC, ST, OBC candidates would remain without allocation of zones. These SC/ST/OBC candidates who remain without allocation of zones in this exercise may be allotted the zones by applying the principle of merit-cum preference against the vacancies which remain unallotted. There could be, therefore, over representation of SC/ST/OBC candidates in this selection year. This would be adjusted against the reserved vacancies of the respective categories, as the case may be, in subsequent selection year."

6. Ld. counsel for the applicant would vociferously plead that the applicant who is higher in merit than the reserved category candidates and have given preferences for Kolkata ought not to have been deprived to adjust the reserved category candidates lower in merit than the present applicant in their desired location, i.e Kolkata. In substantiation of the said contention, ld. counsel for the applicant would invite our attention to Annexure A-3 which shows that Sayan Datta (Rank 1094), Saikat Das (Rank 1132) Dipangshu De (Rank 1689) have been allotted PAO Cuttack, whereas, OBCs with rank 2590 - 2703 etc., have been allotted PAO Kolkata. Similarly, ST & SC candidates ranking 6747 onwards have been

allotted PAO Kolkata, which according to the applicant is unfair and unjust and in violation of the directives as discussed supra.

Ld. counsel would allege that the Fundamental Rights of the applicant as enshrined under Article 14, 16, 21 of the Constitution of India have been infringed and that the applicants deserve identical treatment to that of Surender Singh (Applicant in O.A 3494/2009).

Ld. counsel would submit that the applicants have been asked to furnish documents within 17.09.2021 for the purpose. Ld. counsel would submit that the communication dated 26.08.2021 from the Accounts Officer (PA-Admin) Postal Accounts Wing admits that the said allocations of selected candidates depends on points like rank, manpower availability but it does not clarify why the applicants, despite securing higher ranks than the reserved category candidates, have been allotted PAO Cuttack and not PAO Kolkata as per their choice exercised by them.



Ld. counsel submits that the authorities have asked to intimate their acceptance not later than 17.09.2021 alongwith the documents mentioned in memo dated 18.08.2021 and that if the documents are submitted, their allocations at Cuttack PAO would be finalized. Ld. counsel would submit that he would seek liberty to prefer representation before the authorities to bring to their notice the violations made in the matter of allocations of zones as in the case of Surender Singh, Inspector (Central Excise) as contained in draft DOPT OM dated 04.06.2010 (Annexure A-7) and the Department of Post instructions dated 28.05.2021 (Annexure A-2).

7. Therefore, we give liberty to the applicants to furnish their documents as asked for vide memo dated 28.05.2021, within 17.09.2021,

without prejudice to their rights and contentions to prefer individual representation to the competent respondent authority to seek reconsideration in the matter of allocation of zones in terms of the draft DOPT OM dated 04.06.2010 (Annexure A-7) and the Department of Post instructions dated 28.05.2021 (Annexure A-2), within a period of 7 days from this date. In the event such representation is preferred, the competent authority shall consider and dispose it of in the light of the DOPT OM extracted supra and if necessary by changing their allocated zones in accordance with their ranks and preferences.



8. Till such time, respondents shall not compel the applicants to join the place of allocated zones at Cuttack and Guwahati as we would note that in the case of Monica Das, (OA 1371/2021) she has been allocated to PAO Guwahati.

9. With the aforesaid observations and directions, we would dispose of the O.A without any orders as to costs.

(Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)