

Interim relief order Reserved on 06.01.2021

Pronounced on 21ST JANUARY, 2021

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD**

CIRCUIT BENCH UTTRAKHAND

Present:

**Hon'ble Mrs. Justice Vijay Lakshmi, Member-J
Hon'ble Mr. Devendra Chaudhry, Member-A**

Original Application No. 331/00622/2020
(U/S 19, Administrative Tribunal Act, 1985)

Naresh Chandra & Others vs. Union of India & Others

ORDER ON INTERIM RELIEF

Order delivered by Hon Devendra Chaudhry (Member-A)

The present OA has been filed challenging the order 28.08.2020 by which the results of the departmental examination conducted on 29.09.2019 in Uttrakhand Circle of Dept of Posts for promotion to the post of Postman cadre from that of Gramin Dak Sevak (GDS) were held on the basis of vacancies available.

2. The brief facts of the case *per* the applicants are that following the issue of notification dated 10.05.2019 (Annexure-02) regarding syllabus and pattern of departmental examination for the Posts for promotion to the post of Postman cadre such as MTS, Postman, Mail Guard, Postal Assistant/Sorting Assistant from that of GDS, a Model Notification was

issued vide 31.05.2019 which interalia specified that examination shall be held for vacancies emerging from **vacancy years: 2015-16 to 2017-18 including the period of 01.04.2018 to 31.12.2018**. That the applicants having required eligibility, wrote the examination for the post of **Postal Assistant/Sorting Assistant held on 15.09.2019 and for the post of Postman/Mail Guard held on 29.09.2019 (Annexure-06)**. That the results of the Postal / Sorting Assistant examinations were announced on **22.04.2020** and the results of the Postman/Mail Guard examination were announced on **12.03.2020**. That the respondents vide 19.05.2020 (Annexure-7 colly) called for fresh options from Surplus Candidates of the examination concerning the Postman/Mail guard held on 29.09.2019 for the vacancy year 2019. That another circular dated 09.06.2020 (Annexure-08) was also issued whereby, it was directed that appointment letters may be issued to qualifying candidates concerning examination held on 29.09.2019 for Postman/Mailguard whose results were declared on 12.03.2020 subject to the willingness of the candidates to join on the post of Postman/Mailguard. **That this will be done purportedly for vacancy year 2019 comprising period 1.04.2019 to 31.12.2019**. That the applicants did not qualify in the first merit list of candidates for the post of Postman/Mailguard and expected to be qualified as 'Surplus candidates' against vacancies which were presumably left unfilled following the exercise of choice for filling the same by the candidates selected both for the Postal Assistant/Sorting Assistant and the Postman/Mailguard because the post of Postal Sorting/Assistant carries some better pay conditions. However since for

example in the case of the applicant vide letter dated 28.08.2020 (impugned letter), he was informed about his failure even to qualify as a ‘surplus candidate’. Therefore a number of RTI applications were moved seeking vacancy position qua 2019 etc in which vide replies dated 30.07.2020, 07.08.2020, 08.10.2020, 11.09.2020, 14.09.2020, 28.09.2020, 09.10.2020 regarding the vacancy positions were informed in which it is revealed that the vacancy position even after stated filling up of vacancies from the surplus candidates is wise is actually as follows-

1. 04 vacancies for Chamoli division
2. 04 for Nainital division
3. 01 for Pithoragarh division
4. 01 for Almora division
5. 02 for Tehri Division division

Viz: total 12 vacancies are vacant in the Uttarakhand circle in its various divisions and if vacancies reserved for the MTS candidates are also included then there are some 21 vacant posts. This implies that a number of posts were lying vacant even after the declaration of the ‘surplus candidates’ results that is to say that inspite of the stated filling up of the vacant posts left unfilled by the choice of exercise of the candidates selected for Postal / Sorting Assistant/ or otherwise, **there were still vacant posts available for the year of vacancies for which the said examinations were held and so denial of vacant posts was**

unjustifiable and illegal. Thus the issue to be determined is that whether, actually 12 post of Postman cadre are still vacant against which the Examination for the post of Postman/Mail Guard held on 29.09.2019 due to non-joining of the participants who were given their joining on the post of Postal Assistant/Sorting Assistants and that in fact a total of 21 posts of Postman are still vacant, and the applicants who state that they are duly qualified in the departmental examination have, as such an legitimate expectation and hope to be promoted on those post on the basis of preferential position in select list. **Therefore, posts still exist and are therefore required to be filled up by such other available surplus candidates such as the applicants.**

2.1 That similar procedure has been followed by other Circles such as Haryana and Jharkhand and so the Uttrakhand circle should also mandatorily fill up all posts notified for the said examination. Since the same has not been done and the representation decided wrongly vide the impugned order; hence the OA.

3.0 Thus, it emerges that the key grounds on which relief is claimed are:

- i. Following the declaration of results on 12.03.2020 and 22.04.2020 of the examinations held vide examination dated 29.09.2019 and 15.09.2019 respectively vide notifications dt. 20.08.2019 and 05.08.2019 respectively, a number of successful candidates have not joined on the post of Postman / Mail guard and so a number of notified vacancies of Postman / Mail guard are still unfilled.

ii. That these notified unfilled vacancies, numbering about 21 (twenty one) have not been filled completely by the 'surplus candidates' as per extant guidelines.

4.0 We have heard the 1st counsels for both the parties at length and perused the records available in PDF carefully and anxiously. We would now examine the prayer for the Interim relief sought by the applicants.

5.0 In order to do this, it is relevant to extract the relevant portions of the concerned documents. The same are as below:

RTI reply 07.08.2020

भारतीय डाक विभाग

कार्यालय चीफ पोस्टमास्टर जनरल, उत्तराखण्ड परिमण्डल, देहरादून-248001

सेवा में,

श्री पंकल आर्य

(अधिवक्ता)

चैम्बर-07 सिविल व सेशन कोर्ट

चर्च कंपाऊड, सीतापुर नेत्र चिकित्सालय के सामने

नैनीताल रोड, हल्द्वानी-263139

पत्रांक भर्ती /आर.टी.आई मामले /2019-20 दिनांक 07.08.2020

विषय: सूचना का अधिकार अधिनियम- 2005 के अंतर्गत मांगी गयी सूचना उपलब्ध कराने बाबता

सूचना का अधिकार अधिनियम -2005 के अंतर्गत आपके द्वारा "श्रीमान चीफ पोस्टमास्टर

जनरल उत्तराखण्ड परिमण्डल देहरादून को भेजे गए RTI आवेदन पत्र सं RTI/01CPMG/DDN दिनांक 06/07/2020 (जो इस कार्यालय मे दिनांक 10-07-2020 को प्राप्त हुआ है) में उल्लिखित बिंदु -1 पर मांगी गयी सूचना के सम्बंध मे वांछित आख्या निम्नवत प्रेषित है:-

बिंदु –1: ग्रामीण डाक सेवक से पोस्टमैन संवर्ग में विभागीय परीक्षा के माध्यम से प्रोन्नति हेतु वर्ष 2019 में उत्तराखण्ड परिमण्डल में अनुसूचित जाति संवर्ग में कुल 06 रिक्विटियों पर विज्ञप्ति जारी की गयी थी जो चमोली मण्डल –02 नैनीताल मण्डल –01 एवं टिहरी मण्डल–02 में थी।

उक्त सूचना से संतुष्ट न होने की दशा में प्रथम अपीलीय अधिकारी निदेशक डाक सेवाएँ, कार्यालय चीफ पोस्टमास्टर जनरल, उत्तराखण्ड परिमण्डल, देहरादून–248001 को इस पत्र प्राप्ति के 30 दिन के भीतर अपील प्रस्तुत की जा सकती है।

जी.एस.तनेजा
केंद्रीय लोक सूचना अधिकारी /
सहायक पोस्टमास्टर जनरल स्टाफ

प्रति:—

- सहायक निदेशक कार्यालय मुख्य पास्टमास्टर जनरल, उत्तराखण्ड परिमण्डल, देहरादून, को उनके पत्रांक RTI/DN/121/20 दिनांक 10–07–2020 के कम में सूचनार्थ।

RTI reply of 14.09.2020

पंजीकृत

भारतीय डाक विभाग

कार्यालय अधीक्षक डाकघर टिहरी प्रखण्ड, नई टिहरी–249001

सेवा में,

Shri Umed Singh
Vill Lalpuri
PO- Majhara Anand Singh Dineshpur
Udhamsingh Nagar-263160
पत्रांक— बी—2/99/आर.टी.आई./चैप-4/2020–21 दिनांक नई टिहरी 14–09–2020

विषय— सूचना के अधिकार अधिनियम 2005 के अन्तर्गत बिन्दुवार यचूचना उपलब्ध कराने विषयक महोदय,

उपरोक्त विषयक मामले से सम्बन्धित प्रार्थना पत्र परिमाणलय कार्यालय पत्रांक संख्या Rectt./RTI Matters/2019-20 दिनांक 11–09–2020 के माध्यम से प्राप्त हुआ है की बिन्दुवार सूचना निम्नवत् सेवा में पेशित की जा रही है।

ब्र० सं०	प्रदान की जाने वाली सूचना	उत्तर
02	वर्ष 2019 में ग्रामीण डाक सेवक से पोस्टमैन व डाक सहायक पद पर जो परीक्षा हुई जिसमें दोनों परीक्षाओं में पास अभ्यर्थिया ने पोस्टमैन पद पर रिफ्यूजल देकर डाक सहायक पद का चयन किया उसके पश्चात उत्तराखण्ड परिमण्डल के प्रत्येक डिवीजन में पोस्टमैन UR,SC,ST,OBC की की कितनी सीटे रिक्त है और देने की कृपा करें।	टिहरी मण्डल में निम्न विवरण के अनुसार सीटे रिक्त उहै— (1) UR-01 (2) SC-01

यदि आप दी गयी सूचना से सन्तुष्ट नहीं हैं। तो आप इस पत्र के प्राप्ति की तारिख से 30 दिनों के भीतर निदेशक डाक सेवायें कार्यालय चीफ पोस्टमास्टर जनरल उत्तराखण्ड परिमण्डल देहरादून 248001 के यहाँ अपील कर सकते हैं।

भवदीय

सी.पी.आई.ओ.

अधीक्षक डाकघर

ਟਿਹਰੀ ਪ੍ਰਖਣਡ, ਨਵੀਂ ਟਿਹਰੀ

—249001 पतिलिपि —

1. चीफ पोस्टमास्टर जनरल उत्तराखण्ड परिमण्डल देहरादून के पत्र संख्याRectt./RTI Matters/2019-20 दिनांक 11-09-2020 के अनुपालन में सूचनार्थ प्रेषित।

भवदीय

सी.पी.आई.ओ.

अधीक्षक डाकघर

टिहरी प्रखण्ड, नई टिहरी

249001

Annexure-07 (colly) Circular dated 19.05.2020

“Department of Posts

Office of the Chief Postmaster General, Uttarakhand Circle, Dehradun-248001

To,

All SSPOs/SPOs in Uttarakhand Circle

No. Rectt./2-5/PM-MG/2019 Dated at Dehradun the 19-05-2020

Sub.: Calling for fresh option/preferences of Divisions from the Surplus Qualified candidates of Limited Departmental Competitive Examination from promotion in cadre of Postman/ Mail Guard held on 29.09.2019 for the vacancy year 2019.

* * * * *

As per the approval of competent authority, it has been instructed to seek fresh option/preference from all Surplus Qualified candidates of Limited Departmental Competitive Examination for promotion to the cadre of

Postman/Mail Guard from MTS and GDS held on 29.09.2019 for the vacancy year 2019.

You are therefore requested to call for options/preferences in the enclosed option form from all those candidates mentioned in the list (enclosed). The option forms should be attested and submitted to this office by 22.05.2020. Compilation of options/ preferences exercised by the candidates should be sent in enclosed Annexure-A in hard copy as well as soft copy (Excel Format only). Soft copy should be sent to this office by 22.05.2020 through email at adrcoddn@gmail.com.

Details of unfilled vacancies is enclosed. It should be ensured that no column of option has been left blank by candidate in option form.

*Sd/-
(G.M. Taneja)
APMG (Staff)
O/o Chief Postmaster General
Uttarakhand Circle, Dehradun”*

Annexure-08: Circular dated 09.06.2020

“Department of Posts

Office of the Chief Postmaster General, Uttarakhand Circle, Dehradun-248
001

*Memo No. Recrt./2-5/PM-MG/2019
09-06-2020*

Dated at Dehradun the

In continuation to this office memo of even no. dated 12.03.2020, the Competent Authority is pleased to announce the selection and allotment of Divisions of GDS surplus qualified candidates of the examination for recruitment to the cadre of Postman/ Mail Guard for the vacancies of the year 2019 (i.e. from 01.01.2019 to 31.12.2019), held on 29.09.2019 followed by Data Entry Skill Test (DEST) on 08.03.2020 on the basis of marks secured in Paper-I, since Paper-II and Paper-III (DEST) were of only qualifying nature as mentioned in Annexure-A.

2. The selection of the candidates is subject to the provisions of relevant RRs and other conditions (Pattern and Syllabus) laid down for recruitment of GDSs to Postman/ Mail Guard cadre through examination. The Divisional

Heads will issue appointment to the candidates selected in the format as prescribed. They, before issuing appointment to the candidates will check the result with reference to their recommendations and other criteria and ensure that their selection is impartial and correct as per the recommendations and the conditions/criteria for qualifying the Examination. In case, any discrepancy is found, Divisional Heads will not issue the appointment and will bring the discrepancy promptly to the notice of this office confidentially. The Divisional Heads will issue appointment of the candidates selected after fulfilling the pre-appointment formalities as prescribed by the Directorate from time to time.

3. *In case, any candidate is not willing for promotion as Postman, then his/her unconditional refusal should be obtained and sent to this office.*

4. *The details of the candidates have been shown as per the list provided by the division. If any mistake in the Name/Roll No./Community of the candidate is noticed, the same may be corrected and intimated to this office immediately.*

5. *Before issuing appointment orders to the selected candidates, the Divisional Heads concerned should ensure that no vigilance/disciplinary case is either pending or contemplated against him/her and no punishment is current against the candidate. In case, there is any such case, the candidate concerned may not be given appointment and the facts be reported to this office immediately.*

6. *Kindly acknowledge receipt.*

*Sd/-
(G.M. Taneja)
APMG (Staff & Vig.)
O/o Chief Postmaster General
Uttarakhand Circle, Dehradun*

ORDER SHEET DATED 23.11.2020

"...We have joined this Division Bench online through video conferencing facility.

Shri N.K. Papnoi, learned counsel for the applicants and Shri T.C. Agrawal, learned counsel for the respondents, on

advance notice, both are present online.

MA No. 1156/2020 has been filed by the applicants under Rule 4 (5) of CAT Procedure Rules, 1987 to allow them to pursue this OA jointly. As common cause of action and common interest of the applicants is involved, MA is allowed. Applicants are permitted to pursue the O.A. jointly.

Heard on admission and perused the record available with us in PDF form.

Admit

As Shri T.C. Agrawal has appeared on behalf of all the respondents, on advance notice, there is no need to issue fresh notices.

Counter Affidavit be filed within four weeks. Rejoinder Affidavit, if any, be filed within two weeks thereafter.

List this case on 15.02.2021 before the Registrar's court for completion of pleadings.

Prayer has been made by learned counsel for the applicants to grant interim relief.

Learned counsel for the respondents prays for a short time, to seek instruction on the issue of interim relief, by drawing our attention to the reply given to the applicants under R.T.I.

Learned counsel for the respondents may seek instructions on the issue of interim relief from the respondents within three weeks.

List this case on 16.12.2020 for consideration of interim relief..."

ORDER SHEET DATED 16.12.2020

".....We have joined this Division Bench online through Video Conferencing.

Shri N.K. Papnoi, learned counsel for the applicant and Shri T.C. Agrawal, learned counsel for the respondents,

both are present online.

The case was listed for hearing for grant of interim relief.

Learned counsel for the respondents submits that he has received the instructions from the department that at present no vacancies are available. Further, he prays for three weeks time to file the short counter reply.

He also submits that he has received information from the respondent department that no new notification has been issued and no notification will be issued till the next date of hearing.

With this assurance from the learned counsel for the respondents, the case is adjourned.

List on 18.01.2021 for consideration of interim relief...."

ORDER SHEET DATED 06.01.2021

"...We have joined this Division Bench online through video conferencing.

Shri N.K. Papnoi, learned counsel for the applicants and Shri T.C. Agrawal, learned counsel for the respondents, both are present online.

Heard on interim relief and perused the records available with us in PDF.

Order is reserved.

Shri T.C. Agrawal, learned counsel for the respondents has prayed for and is allowed a time of three days to file an affidavit with regard to the statement he has made, that the department is not going to issue any notification in respect of the vacancies which are subject matter in this O.A.

Hon'ble Mr. Devendra Chaudhry, Member (A) has consented to this order through video conferencing...."

Page 53 – Annexure-03 dated 31.05.2019

MODEL NOTIFICATION

F. No.
Government of India
Ministry of Communication
Department of Posts
Office of Chief Postmaster General
.....Circle
.....(Address)

Sub: Conducting of Limited Competitive Examination from Gramin Dak Sevaks (GDSs) for recruitment to the cadre of Postal Assistants/Sorting Assistants for the vacancy years 2015-16, 2016-17, 2017-18 & 2018 (01.04.2018 to 31.12.18).

*The Limited Competitive Examination will be held on 14th of July, 2019 (Sunday) for recruitment of Postal Assistants/Sorting Assistants from Gramin Dak Sevaks (GDSs) for unfilled vacancies of LDCE for promotion from Postman/Mail Guard and MTS to the cadre of Postal Assistants/Sorting Assistants for the vacancy years 2015-16, 2016-17, 2017-18 & 2018 (01.04.2018 to 31.12.18). Accordingly, applications are invited from the willing and eligible GDSs in the format enclosed (**Annexure-I**).*

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Annexure-II

Tentative number of unfilled vacancies, year-wise for Competitive Examination from GDSs to the cadre of PAs/SAs for the vacacy year upto 31.12.2018

S.No	Name of Division/Unit	2015-16			2016-17			2017-18			2018 (01.04.2018 to 31.12.2018)		
		UR	SC	ST	UR	SC	ST	UR	SC	ST	UR	SC	ST

Page 57: Annexure-04(colly)

ANNEXURE-4

Department of Posts
Office of the Chief Postmaster General Uttarakhand Circle, Dehradun-248 001

To,

1. *The SSPOs Dehradun/Nainital*
2. *The SPOs Almora/Chamoli/Pauri/Pithoragarh/Tehri*
3. *The SRM "DN" Division Dehradun*

No. Rectt./GDS/PA-SA/2018
06-2019

Dated at Dehradun the 04-

Sub: Competitive Examination limited to GDSs for the post of Postal Assistants/Sorting Assistants for unfilled vacancies upto 31.12.2018-regarding.

It has been decided by the Directorate to hold a Limited Departmental Competitive Examination for promotion to the cadre of PA/SA against the vacancies for the year 2015-16, 2016-17, 2017-18 and 2018 (from 01.04.2018 to 31.12.2018) on 14.07.2019 (Sunday) at Dehradun (exam venue will be intimated later) as per schedule, detailed below:-

Date Exam	Paper	Time
14.07.2019 (Sunday)	Paper-I	10:00 AM to 12:00 PM
	Paper-II	01:00 PM to 01:45 PM

2. *Eligibility Criteria:- As per the Recruitment Rules notified in GSR 411 (E) dated 21.05.2015, the following conditions are to be fulfilled:-*

- a. *Educational Qualification: 10+2 Standard or 12th class pass from a recognized University/Board.*
- b. *Age: Should be within 30 years of age (relaxable for different categories as notified by the Government of India from time to time).*
- c. *Service eligibility: Must have put in a minimum service of five years as on the first day of April of the year to which the vacancy(ies) pertain to.*

For the purpose of computing minimum regular service, the service rendered on regular basis as on 01.04.2016, 01.04.2017 & 01.04.2018 are to be taken as cut-off date and Exam(s)/Block of exam years for which the Applicant is eligible & Crucial dated of eligibility are as under:-

- i. *For the vacancy year 2018
01.04.2018*
- ii. *For the Vacancy year 2017-18 & 2018 cut-off date
01.04.2017*
- iii. *For the Vacancy year 2016-17, 2017-18 & 2018 cut-off date
01.04.2016*

3. *The revised Pattern and syllabus (including qualifying marks for different categories) for the said examination is enclosed as Annexure-C along with Directorate's instructions.*

Page 60 -Annexure04 (colly)

*Vacancies to conduct competitive limited examination for GDSSs for promotion to the cadre of Pas/SAs for the year 2016-17, 2017-18 and 2018
(from 01.04.2018 to 31.12.2018)*

S.No.	Name of Division	2015-16	2016-17			2017-18			2018 (01.04.2018 to 31.12.2018)		
1.			UR	SC	ST	UR	SC	ST	UR	SC	ST
2.	Exam conducted in the year 2016	9	1	1	7	1	0	0	0	1	1
3.		0	0	0	3	2	1	1	1	1	1
4.		0	0	1	0	0	0	0	0	0	0
5.		0	0	0	0	0	1	0	1	0	0
6.		3	0	0	5	1	1	2	1	0	0
7.		2	1	0	7	1	0	0	2	0	0
8.		6	0	3	1	0	0	1	0	0	0
TOTAL		2	0	0	2	0	0	0	0	0	0
		22	2	5	25	5	3	4	6	2	

Sd-
Assistant Director (Rectt.)

Page 61 Annexure 04 (colly)

**Department of Posts, India
Office of Chief Postmaster General, Uttarakhand Circle, Dehradun-
248001**

To,

1. All SSPOs/SPOs in Uttarakhand Circle
2. Supdt. PSD Saharanpur
3. SRM "DN" Division Dehradun
4. AD (Staff) CO Dehradun
5. Officer Incharge, P&T Admin Cell, APS Centre, C/O 56 APO

No. Rectt./2-5/PM-MG/DE/2018 Dated at Dehradun 20.08.2019

Sub: Competitive Examination for recruitment to the cadre of Postman and Mail Guard from eligible MTS AND gds for the vacancy year 2018 (01.04.2018 to 31.12.2018) and 2019 (01.01.2019 to 31.12.2019).

The Limited Departmental Competitive Examination (LDCE) limited to MTS officials and Competitive Examination limited to GDSS will be held on 29th of September, 2019 (Sunday) for recruitment to the cadre of Postman and Mail Guard for the vacancy year 2018 (01.04.2018 to 31.12.2018) and 2019 (01.01.2019 to 31.12.19). Accordingly, applications are invited from the willing and eligible candidates in the format enclosed (**Annexure-I**). The schedule of activities of the examination is furnished hereunder:

S. No.	Activity	Proposed (Schedule)	Date
1.	Date of notification	20.08.2019 (Tuesday)	
2.	Last date for receipt of Application form at Divisional Office/Controlling Unit from eligible candidates	05.09.2019 (Thursday)	
3.	Issue of Admit Card by DO/Head of Units to eligible candidates	23.09.2019 (Monday)	
4.	Date of Examination (date & time)*	29 th September, 2019	
		Paper-I	1000 hrs to 1130 hrs
		Paper-II	1135 hrs to 1235 hrs

*Exam will commence at 10:00 AM sharp in all the Circles and both the Paper-I & II will be conducted in continuity in one sitting from 1000 hrs to 1235 hrs. There will be 5 minute's break in between Paper-I and Paper-II, but, candidates cannot be allowed to leave his/her desk.

Page 62-continued....

2. **Vacancies:** Number of vacancies available under Recruiting Division/Unit-wise for the vacancy year 2018 (01.04.2018 to 31.12.2018) is enclosed as **Annexure-II**. Further, all the Divisional Heads are requested to submit the vacancy position for the year 2019 (01.01.2019 to 31.12.2019) in the prescribed format (enclosed as **Annexure-III**) till 30.08.2019 positively.
3. **Eligibility Criteria:-** As per the Department of Posts Postman and Mail Guard (Group 'C' post) Recruitment Rules, 2018 notified in GSR 899 (E) dated 20.09.2018, the following categories of official (s) are eligible to appear in the examination:
 - (i) Multi Tasking Staff (MTS) in Level-1 of the pay matrix with three years regular service in the grade as on the **01.04.2018/01.01.2019**.
 - (ii) Gramin Dak Sevaks (GDSS) who have worked regularly for five years in that capacity as on the **01.04.2018/01.01.2019** and fulfilling the following conditions:
 - (a) **Educational Qualification:** 10th standard pass from a recognized Board.
 - (b) **Age:** Maximum age as on 01.04.2018/01.01.2019 for UR candidates shall be 50 years, for SC/ST will be 55 and for OBC is 53.
 - (c) The candidate should have studied local language at least upto 10th standard. (Circle will clearly mention its local language as

notified by SPN Division of the Directorate vide Annexure-E of letter No. 17-08/2018-SPB-I dated 10.05.2019, 28.06.2019, 11.07.2019 & 23.07.2019.

- (d) Knowledge of working on Computer.
- (e) Candidate should have a valid license of two-wheeler or light motor vehicle. Persons with Disability are exempted from the possession of licence. However, GDS without license to drive two wheeler or light motor vehicle shall also be allowed to appear in the examination.

[This condition is required for recruitment to the cadre of Postman only]

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ANNEXURE-II

- (ii) 25% by promotion from Multi Tasking Staff of the recruiting Postal Division on the basis of Limited Departmental Competitive Examination:-

Division	UR	SC	ST	OBC	Total
Almora	1	-	-	-	1
Chamoli	1	-	-	-	1
Dehradun	2	-	-	-	2
Nainital	-	1	-	-	1
Pauri	1	-	-	-	1
Pithoragarh	-	-	-	-	0
Tehri	1	-	-	-	1
RMS	1	-	-	-	1
TOTAL	7	1	0	0	8

- (iii) 50% by direct recruitment on the basis of Competitive Examination Limited to Gramin Dak Sevaks*:-

Division	UR	SC	ST	OBC	Total
Almora	1	-	-	-	1
Chamoli	1	-	-	1	2
Dehradun	3	-	-	-	3
Nainital	1	-	-	1	2
Pauri	1	1	-	-	2
Pithoragarh	1	-	-	-	1
Tehri	-	-	-	-	0
RMS	2	-	-	-	2
TOTAL	10	01	0	02	13

***Note:-**

- a. 02 vacancies of Dehradun Division (UR category) have been reserved for compassionate appointment.
- b. 01 vacancy each (UR category) from Pauri and Nainital Division have been reserved for sports quota.

Sd-
Assistant Director (Recrt.)

Page 67... continued**Annexure-III****Vacancy details for LDCE for promotion in cadre of Postman/Mail Guard from eligible MTS and GDS for the year 2019 (01.01.2019 to 31.12.2019)****Postman**

Vacancy (ies) to be filled up amongst eligible MTS						
Sl. No.	Name of Division/Unit	Vacancy(ies)				
		UR	SC	ST	Total	

Vacancy (ies) to be filled up amongst eligible GDSs											
Sl. No	Name of Division/Unit	Vertical					Horizontal				
		U R	OB C	S C	S T	EW S	PH -I	PH -II	PH -III	PH -IV & V	<u>TOTAL</u>

Mail Guard

Vacancy (ies) to be filled up amongst eligible MTS						
Sl. No.	Name of Division/Unit	Vacancy(ies)				
		UR	SC	ST	Total	

Vacancy (ies) to be filled up amongst eligible GDSs											
Sl. No	Name of Division/Unit	Vertical					Horizontal				
		U R	OB C	S C	S T	EW S	PH -I	PH -II	PH -III	PH -IV & V	Total

*NOTE:- All the Divisional Heads are requested to furnish the above details till 30.08.2019 positively.

Page 70 Annexure-5&6**ANNEXURE-5**

Department of Posts, India
Office of the Chief Postmaster General, Uttarakhand Circle, Dehradun-248001

Memo. No. Rectt/2-5/PM-MG/DE/2018 dated at Dehradun the 12.03.2020

In pursuance of Circle Office Dehradun Notification No. Rectt/2-5/PM-MG/DE/2018 dated 20.08.2019, examination for Recruitment from MTS and GDS cadres to the cadre of Postman/Mail Guard was held on 29.09.2019 for the vacancies of the year 2019 revised vide letter of even no. dated 15.01.2020. Data Entry Skill Test (DEST) was conducted on 8.3.2020 on the basis of marks secured by the candidates in Paper-I and Paper-II (Qualifying only).

2. The Division/Unit wise vacancies for MTS quota and GDS quota and revised vide letter of even no. dated 15.01.2020 is as under:-

S. No.	Name of Division	Category wise breakup of vacancies for MTS to Postman		Total		Category wise breakup of vacancies for GDS to Postman				Total			
		Unreserved				Unreserved		SC	ST	OBC			
		OC	EWS			OC	EWS						
1	Almora	01	-	-	-	01	02	-	-	-	01	02	
2	Chamoli	01	-	01	-	02	03	01	02	-	01	07	
3	Dehradun	02	-	-	-	02	03	-	-	-	-	03	
4	Nainital	-	-	01	-	01	02	-	01	-	01	04	
5	Pauri	01	-	-	-	01	02	-	-	-	01	03	
6	Pithoragarh	02	-	-	-	02	02	01	01	-	01	05	
7	Tehri	01	-	-	-	01	01	-	02	-	-	03	
8	RMS 'DN' Div.	-	-	-	-	-	-	-	-	-	-	-	
9	Total	08		02	-	10	15	02	06	-	04	27	

3. Out of 368 candidates who applied, 11 MTS candidates and 291 GDS candidates appeared actually in the Examination.

4. The criteria of minimum marks for qualifying the Examination (Paper-I and II) was category wise as under:-

Qualifying Marks	UR	OBC	SC/ST
Paper I & Paper II	40% in each paper	37% in each paper	33% in each paper

5. Out of the 11 MTS candidates who appeared in the Examination, 06 qualified in Paper I and II and out of the 291 GDS candidates who appeared in the Examination, 106 qualified in Paper I and II. A total of 112 were shortlisted for Paper III (DEST) on the basis of their marks in Paper I.

6. 03 MTS and 104 GDS candidates appeared in the DEST conducted on 08.03.2020 and the criteria of minimum marks for qualifying the DEST was as under:-

Qualifying Marks	UR	OBC	SC/ST
DEST	50% i.e. 12.50	45% i.e. 11.25	40% i.e. 10.00

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7. The number of the candidates who have been selected in the Exam on the basis of merit of marks secured in Paper (I). (Paper II and III were of Qualifying nature). Division wise category wise number of selected candidates is as under:-

S. No.	Name of Division	Category wise breakup of candidates selected from MTS			Total	Category wise breakup of candidates selected from GDS				Total		
		UR	SC	ST		UR		SC	ST			
						OC	EWS					
1	Almora	-	-	-	-	02				02		
2	Chamoli	-	-	-	-	03		02	-	-		
3	Dehradun	01	-	-	01	03	-	-	-	03		
4	Nainital	-	-	-	-	02	-	01	-	01		
5	Pauri	-	-	-	-	02	-	-	-	02		
6	Pithora garh	-	-	-	-	02	01	01	-	01		
7	Tehri	01	-	-	01	01	-	02	-	03		
8	RMS 'DN' Div.	-	-	-	-	-	-	-	-	-		
9	Total	02	-	-	02	05	01	06	-	02		
										24		

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Annexure-6

Department of Posts, India
Office of the Chief Postmaster General, Uttarakhand Circle, Dehradun-248001

Memo No. Rectt./GDS/PA/SA/2019
Dated at Dehradun the 22.04.2020

In pursuance of Circle Office Dehradun Notification No. Recrt/GDS/PA-SA/2019 Dated 05.08.2019, Competitive Examination (Paper-I & II) for recruitment to the cadre of Postal Assistants/ Sorting Assistants from Gramin Dak Sevaks (GDSs) for the vacancy years 2015-06, 2016-17, 2017-18, 2018 and 2019 was held on 15.09.2019 and (Paper-III) i.e. Data Entry Skill Test was held on 09.02.2020.

2. The Division/Unit and year wise vacancies were announced enclosed with the Notification dated 05.08.2019 as under:-

For the vacancy year 2015-16											
S. No.	Name of Division	Category wise breakup of vacancies					Total	PH			
		UR	SC	ST	OBC	EWS		PH 1	PH 2	PH 3	PH 4
1	Almora	-	-	-	-	-	-	-	-	-	-
2	Chamoli	-	-	-	-	-	-	-	-	-	-
3	Dehradun	-	-	-	-	-	-	-	-	-	-
4	Nainital	-	01	-	-	-	01	-	-	-	-
5	Pauri	-	-	-	-	-	-	-	-	-	-
6	Pithoragarh	-	-	-	-	-	-	-	-	-	-
7	Tehri	-	-	-	-	-	-	-	-	-	-
8	RMS 'DN'	-	-	-	-	-	-	-	-	-	-
9	Total	-	01	-	-	-	01	-	-	-	-

For the vacancy year 2016-17												
S. No.	Name of Division	Category wise breakup of vacancies					Total	PH				
		UR	SC	ST	OBC	EWS		PH 1	PH 2	PH 3	PH 4	PH 5
1	Almora	08	01	01	01	-	11	-	-	-	-	-
2	Chamoli	-	-	-	-	-	-	-	-	-	-	-
3	Dehradun	-	-	01	-	-	01	-	-	-	-	-
4	Nainital	-	-	-	-	-	-	-	-	-	-	-
5	Pauri	02	01	-	-	-	03	-	-	-	-	-
6	Pithoragarh	02	01	-	-	-	03	-	-	-	-	-
7	Tehri	06	-	03	-	-	09	-	-	-	-	-
8	RMS 'DN'	-	-	-	-	-	-	-	-	-	-	-
9	Total	18	03	05	01	-	27	-	-	-	-	-

For the vacancy year 2017-18												
S. No.	Name of Division	Category wise breakup of vacancies					Total	PH				
		UR	SC	ST	OBC	EWS		PH 1	PH 2	PH 3	PH 4	PH 5
1	Almora	06	01	-	01	-	08	-	-	-	-	-
2	Chamoli	02	02	01	-	01	06	-	-	-	-	-
3	Dehradun	-	-	-	-	-	-	-	-	-	-	-
4	Nainital	-	-	01	-	-	01	-	-	-	-	-
5	Pauri	04	01	-	01	01	07	-	-	-	-	-
6	Pithoragarh	06	01	-	-	01	08	-	-	-	-	-
7	Tehri	01	-	-	-	-	01	-	-	-	-	-
8	RMS 'DN'	-	-	-	-	-	-	-	-	-	-	-
9	Total	19	05	02	02	03	31	-	-	-	-	-

For the vacancy year 2018 (01.04.2018 to 31.12.2018)												
S. No.	Name of Division	Category wise breakup of vacancies					Total	PH				
		UR	SC	ST	OBC	EWS		PH 1	PH 2	PH 3	PH 4	PH 5
1	Almora	-	01	01	-	-	02	-	-	-	-	-
2	Chamoli	01	01	01	-	-	03	-	-	-	-	-
3	Dehradun	-	-	-	-	-	-	-	-	-	-	-
4	Nainital	-	01	-	-	-	01	-	-	-	-	-
5	Pauri	02	01	-	-	-	03	-	-	-	-	-
6	Pithoragarh	-	02	-	-	-	02	-	-	-	-	-
7	Tehri	01	-	-	-	-	01	-	-	-	-	-
8	RMS 'DN'	-	-	-	-	-	-	-	-	-	-	-
9	Total	04	06	02	-	-	12	-	-	-	-	-

3. The Division/Unit wise vacancies for the year 2019 (01-04-2019 to 31-12-2019) that remained unfilled after the declaration of result for the recruitment year 2019 of the LDCE for recruitment to the cadre of PA/SA from Postman/Mail Guard, Dispatch Rider and MTS are as under:-

For the vacancy year 2019 (01-01-2019 to 31-12-2019)												
S. No.	Name of Division	Category wise breakup of vacancies					Total	PH				
		UR	SC	ST	OBC	EWS		PH 1	PH 2	PH 3	PH 4	PH 5
1	Almora	1	-	1	-	-	2	-	-	-	-	-
2	Chamoli	1	1	-	-	-	2	-	-	-	-	-
3	Dehradun	-	-	-	-	-	-	-	-	-	-	-
4	Nainital	-	-	-	-	-	-	-	-	-	-	-
5	Pauri	-	1	-	-	-	1	-	-	-	-	-
6	Pithoragarh	1	1	-	-	1	3	-	-	-	-	-
7	Tehri	-	1	-	-	-	1	-	-	-	-	-
8	RMS 'DN'	6	3	-	-	-	9	-	-	-	-	-
9	Total	9	7	1	0	1	18	-	-	-	-	-

4. The criteria of Minimum marks for qualifying the Examination (Paper-I and II) was category wise as under:-

Qualifying Marks	UR	OBC/EWS	SC/ST/PWD
Paper I & Paper II	40% in each paper	37% in each paper	33% in each paper

5. Out of the 129 candidates who appeared in the Examination, 77 qualified in Paper I and II and were shortlisted for Paper III (DEST) on the basis of their marks in Paper I as follows:-

S. No.	Name of Division	Category wise breakup of candidates shortlisted for DEST					Total
		UR	OBC	SC	ST	EWS	
1	Almora	06	06	03	01	-	16
2	Chamoli	08	04	07	01	-	20
3	Dehradun	01	03	02	01	-	07
4	Nainital	03	03	03	01	-	10
5	Pauri	07	01	02	-	-	10

6	Pithoragarh	03	-	05	-	01	09
7	Tehri	02	01	02	-	-	05
8	RMS 'DN'	-	-	-	-	-	-
9	Total	30	18	24	04	01	77

6. The criteria of minimum marks for qualifying the DEST was as under:-

Qualifying Marks	UR	OBC/EWS	SC/ST
Paper III (DEST)	50% (12.5)	45% (11.25)	40% (10)

7. All 77 candidates shortlisted for DEST appeared in the DEST conducted on 09.02.2020. 71 candidates qualified DEST.

8. Now, the Competent Authority is pleased to declare the result of the candidates selected in the Examination for Recruitment from GDS to the cadre of PA/SA for the vacancies of the year 2015-16, 2016-17, 2017-18, 2018 (01-04-2018 to 31-12-2018) and 2019 (01-01-2019 to 31-12-2019) held on 15.09.2019 followed by Data Entry Skill Test held on 09.02.2020 on the basis of available category wise vacancies Division wise in order of merit in Paper I against the vacancies of their respective parent divisions is as under:-

Sl. No.	Roll No. of Candidate	Name of Candidate S/Sh.Smt./Ms	Category	Marks secured in		DEST		Remarks
				Paper-I	Paper-II	Marks	%age	
For the vacancy year 2015-16								
Name of Division- NAINITAL								
Vacancy Position : SC- 01 (Total=01)								
Unfilled (SC-01)								
For the vacancy year 2016-17								
Name of Division- ALMORA								
Vacancy Position : UR-08, SC-01, ST-01, OBC=01 (Total=11)								
1	ALMGDS0018	Puran Giri Goswami	OBC	77	24	24.53	98.12	Selected on merit against UR-1
2	ALMGDS0006	Vinod Kumar	SC	67	20	19.44	77.76	Selected on merit against UR-2
3	ALMGDS0019	Pramod Singh Jani	OC	58	24	24.75	99.012	UR-3
4	ALMGDS0005	Nandan Singh	OC	54	21	15.98	63.90	UR-4
Unfilled (UR-04, SC-01, ST-01, OBC-01)								
Name of Division- DEHRADUN								

Page 102... Annexure-07 (colly)

Break-up of unfilled vacancies of MTS to Postman/Mailguard LDCE held on 29.09.2019					
Division	2019		<u>TOTAL</u>		
	UR	SC	ST		

Almora						
Chamoli	1	0	0	1		
Dehradun	1	1	0	2		
Nainital	0	1	0	1		
Pauri	1	0	0	1		
Pithoragarh	2	0	0	2		
TOTAL	6	2	0	8		

Break-up of unfilled vacancies of GDS to Postman/Mailguard LDCE held on 29.09.2019

Division	2019					
	UR		SC	ST	OBC	TOTAL
	OC	EWS				
Chamoli	0	1	0	0	1	2
Pauri	0	0	0	0	1	1
TOTAL	0	1	0	0	2	3

6. It may be seen above that :

- i. vide letter dated 19.05.2020 (Annexure-7, page 99), R-2 has directed all SSPOs/SPOs in Uttrakhand Circle to call for fresh options / preferences of Divisions from the surplus qualified candidates.
- ii. that the number of these surplus posts is 11 posts as per chart on page 102 (part of the Annexure-7).
- iii. that as per page 103, there is a list of 13 candidates titled as list of GDS surplus candidates wherein the names of the applicants is also stated at sl, 13, 14, 17, 21, 21,26,32,37,57 and 67 based on which the applicants also filled in the required forms concerning the options.
- iv. that vide result of surplus candidates only 10 candidates were declared surplus whereas the 19.05.2020 notification declared 11 surplus vacancies.
- v. it is also seen that vide RTI reply dated 07.08.2020 that there are up to in fact 12 vacancies which are vacant in the first place. It is

noteworthy here that this vacancy position is after the declaration of the result of surplus candidates vide notification dated 09.06.2020 which implies *prima facie* that in spite of the declaration of the said result, there are still 12 posts of postman/mail guard vacant, more so, after filling 10 posts by surplus candidates as declared vide the 09.06.2020 notification.

- vi. that apart from above 12 unfilled vacancies, there are other unfilled vacancies from MTS candidates who have also qualified for both Postal Assistant and Postman posts and when final count of all such posts is made then the total vacancy increases to 21 and not just 12 (para 5.15 of OA).

All these *prima facie* documentary evidence does indicate at this stage of analysis of the OA that there are perhaps still unfilled vacancies of postman/mail guard arising out of the vacancies notified for the 2019 examination.

7. In such an event, not to give opportunity to the applicants for being considered for the said posts seems *ex-facie* unjustifiable. Hence there are grounds for consideration of interim relief. The interim relief sought is that, **till the disposal of the matter, the respondents be restrained from initiating any fresh selection process for the post of Postman/Mail guard which are vacant due to non-joining of the**

meritorious candidates who have joined on the post of Postal Assistant/Sorting Assistant.

8.0 The part relating to cancellation of the 10.01.2021 examination per se by way of not proceeding with initiating any fresh process for selection to the posts of Postman/Mail guard is not fully justifiable because that would unilaterally result in stopping an examination subsequent to the disputed notifications and the concerned examination. It would result in a unilateral action against the candidates who are at least presently qualified for writing the 2021 exam vide notification of 27.11.2020. On the other hand, to fill vacancies in consequence of the 27.11.2020 notification by including the still unfilled leftover vacancies notified in 2019 would *prima facie* deny opportunity to the applicants in this OA who assert that they are qualified vide result dated 12.03.2020 and 22.04.2020 discussed above and so are liable to be considered.

9.0 The 1st respondent counsel has only said that they have not issued any fresh notification for filling up of vacancies and would not do so in future. **This in the best of circumstances is a false misleading statement because:**

- i. the current OA was filed on **20/10/2020** and was first heard on **23.11.2020** on which date it was directed that counter be filed by the respondents and the OA will be heard for interim relief on **16.12.2020**.
- ii. Then again when it was heard on 16.12.2020 the 1st respondent counsel stated at the bar that **no new notification has been issued**

and no notification will be issued till the next date of hearing.

The said order is reproduced again below for ready reference:

“...

- ***He also submits that he has received information from the respondent department that no new notification has been issued and no notification will be issued till the next date of hearing.***
- ***With this assurance from the learned counsel for the respondents, the case is adjourned....”***
- ***List on 18.01.2021 for consideration of interim relief....”***

That from above it is abundantly clear that the **respondents had already issued the potentially damaging notification vide date 27.11.2020** after the first hearing of the matter on 23.11.2020 and therefore **it does not lie in the mouth of the ld respondent counsel to mislead the Tribunal by making the false averment that no new notification has been issued purportedly after the filing of the OA and the first hearing on 23.11.2020.** Either the ld respondent counsel did not understand the implication of his statement qua the filing date of the OA and the first hearing on 23.11.2020 or it's a clear case of perjury.

10.0 Thus while the anticipated disputed notification had indeed been issued in spite of the statement at the **BAR by the ld respondent counsel on 16.12.2020**, the fact remains that while it is unjustifiable at this stage to halt or cancel the examination of 10.01.2020 there is good reason to withhold the declaration of the results of the said examination

till the disposal of this OA so that the applicants are not visited by irreparable damage of not being considered at all vide the still unfilled vacancies and the said still unfilled vacancies are filled up and gobbled away in guise of the 27.11.2020 notification filling up of vacancies. We also do not know at this stage as to what is the status of inclusion or exclusion in the listed number of vacancies in the said notification reproduced above. Therefore *prima facie* there is a case for intervention in the shape of an interim direction that the result of the said examination of 10.01.2021 notified by 27.11.2020 notification is not declared till the final disposal of this OA and the claim thereby of the applicants is settled finally for or against them.

11.0 It is also noted that while the written exams will be held on 10.01.2021, other steps of some other consequential tests are also involved which would take their own time leading upto the final declaration of the result at a consequential later date. The applicants have in any case declined to write the said exam on the grounds that there is no need for them to write the exam having possible chances of qualifying on the basis of the 2019 exams against the vacancies specified qua that exam and remaining unfilled on date.

12.0 In light of above and in conclusion therefore we direct the following on the issue of interim relief:

- i. There is no case for cancellation of the exam of 10.01.2021 notified vide 27.11.2020.

- ii. The results of the examination so held will be however not declared till the pendency of this OA.
- iii. The pleadings shall be completed as already directed vide order dated 23.11.2020 for which the parties shall appear before Registrar on 15.02.2021.
- iv. The parties shall ensure filing of the pleadings in time at the pain of heavy costs as the matter is also of timely results declaration of the examination held on 10.01.2021.

The prayer for interim relief is disposed accordingly. Let the OA be listed as per above before Registrar on **15.02.2021** for completion of pleadings as already directed vide order dated 23.11.2020.

(Devendra Chaudhry)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/Shakuntala/