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Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

TRANSFER APPLICATION 39 of 1987

Sher Singh and others Petitioners.

Versus

Superintendent Post Offices,
Fatehgarh Division and others Respondents.

Hon'ble D.S.Misra-AM

HOn'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

This is a Civil Misc. Writ Petition no. 13415 of 1985, which has come on transfer under Section 29 of the A.T.Act,XIII of 1985.

2. The petitioners' case is that they were appointed as Extra Departmental Agents between 1976-79 and were working as such at Branch Post Office Awajpur ,Farrukhabad; that for the purpose of recruitment as Class IV employees in the Postal Military Service, special recruitments were ordered and the Post Master General,U.P., Lucknow (hereinafter referred to as respondent no.3) issued an order dated 7.4.1981 directing the Superintendent of Post Office Fatehgarh Division Farrukhabad (hereinafter referred to as respondent no.1) to make selection from amongst the Extra Departmental Agents, who fulfilled the prescribed conditions and volunteered to be considered for the post(copy annexure-1); that a special test for recruitment was conducted on 28.6.1983 and the petitioners were successful and placed at sl.nos.14, #7, #3, 20

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22, and 27 by the order dated 28.6.1983; that the opp.party no.1 sent the names of sl.nos. 1 to 13 23, and 24 only ,although he was required to send the names of all the persons who succeeded in the examination; that on a representation dated 8.8.1983 filed by the petitioners, the respondent no.1 directed them to appear before the Medical Board by an order dated 15.2.1984(copy annexure-5) that the petitioners were declared medically fit by the Medical Officer on 27.2.1984, but respondent no.1 did not submit the name of the petitioners to the Senior Record Officer, Sena Daak Sewa Abhilekh Karyalay, Army Post Service (respondent no.2); that the petitioners made representations dated 20.7.1984 and 12.8.1984 to all the relevant authorities but the respondents did not forward their names; that the action of with-holding the names of the petitioners has resulted in their nonappointment ; that in the month of May and June, 1985 also a number of vacancies were created but respondent no.1 has wrongly and illegally with-held the names of the petitioners and inspite of repeated representations made to him; that the petitioners have sought direction to respondent nos.1 and 3 to send the names of the petitioners to respondent no.2 and respondent no.2 may be directed to issue appointment letters to the petitioners.

3. In the reply filed on behalf of the respondents, it is stated that respondent no.2 vide letter dated 3.8.1983 allotted 16 vacancies of Group-D officials in Army Postal Services for

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U.P.Circle(copy annexure-CA-2); that respondent no.1 sent the names of 15 candidates vide his letter dated 1.12.1983 and this list included names from sl.nos. 1 to 13 of general category and two candidates of Scheduled Caste at sl.nos.23 and 24(copy annexure CA 3); that respondent no.2 vide his letter dated 20.12.1983 informed respondent no.1 that out of 15 candidates ,recommended by respondent no.1 only 10 candidates have been selected after being declared fit in final medical examination; that thereafter respondent no.1 directed the 12 remaining candidates to appear before the Medical Officer Incharge Military Hospital Fatehgarh for preliminary medical examination to judge the suitability for serving in Army Postal Services;^{that} in the meantime respondent no.1 vide his letter dated 10.4.1984 as-~~ked respondent~~ postal authorities to with-hold with immediate effect the deputation of Group-D in Army Postal Services till further instructions from his office(annexure CA-5); that the letter dated 10.4.1984 of respondent no.2 was communicated to all the departments vide ~~his~~ letter dated 15.6.1984(annexure CA-6); that in pursuance of aforesaid with-holding of further recruitment, the names of remaining 12 candidates could not be sent to Army Postal Services as there was ban for the recruitment from respondent no.2.

4. In the rejoinder affidavit filed on behalf of the petitioners, it was stated that the respondent no.1 had failed to send the names of the petitioners in a malafide and illegal manner and that the letter of respondent no.2 intimating with-holding of names was received several months

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after 15.2.1984 when the applicants were medically examined and found fit; that the petitioners name should have been forwarded in the year 1983, itself in any case before 15th June, 1984; that the petitioners are entitled to be absorbed in the existing vacancies in the division of Fatehgarh of the Postal Department. The petitioners also filed an application on 20.5.87 in which it was stated that the respondent no.1 has notified 12 vacancies of Class IV employees on 18.4.87 and sought a direction that the respondents may be restrained from any selection against the above-mentioned vacancies during the pendency of the instant case. The request contained in this application was opposed by the respondents in the reply filed by them on 18.6.87. In this reply, it is stated that the vacancies notified by the Department do not relate to the Group-D cadre (class IV employees) but these relate to the cadre of Postman and Village Post man and the examination for the aforesaid vacancies is scheduled to be held in the month of June, 1987; that the special recruitment for Group-D officials in the Army Postal Services made in the year 1983 was entirely different from the examination being held to fill the vacancies of Postman and Village Postman cadre (copy of Notification dated 16.4.87 is Annexure-A); that the petitioners had no claim for appointment to the vacancies notified by Notice dated 16.4.1987; that the petitioners had applied for Group-D post and Army Postal Services and the list prepared at that time ~~which~~ was valid upto 30.6.85; that the

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petitioners were not entitled to the relief sought by them.

5. A supplementary affidavit was filed on behalf of the petitioners in which it was stated that the respondent no.1 has passed an order dated 27.5.87 fixing 5.7.1987 for the examination for making fresh appointments(copy annexure-2) and that the number of vacancies notified by the respondents is four for general candidates and three for scheduled caste candidates.

6. We have heard the arguments of the learned counsel for the parties and have also perused the record. The main point for consideration in this case is whether the petitioners had acquired any right and whether there has been any infringement of the exercise of this right by the petitioners. it is admitted by the petitioners that the examination held in the month of June,1983 was for Group-D posts in the Army Postal Services. The result of this examination was declared by respondent no.1 on 28.6.83 and according to para 1 of this letter (copy Annexure CA1) it is clearly stated that the list was valid for appointment to a class IV posts in the Army Postal Services and was valid till 30.6-85 or untill the next examination held for this purpose. Learned counsel for the petitioners' contention is that the failure of respondent no.1 to forward the names of all the successful candidates to respondent no.2 had resulted in their losing the opportunity of appointment to a Group-D post in the Army Postal Services. The contention of the respondent is that they were required to send only

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15 names and not all the names as alleged by the petitioners. Respondents have also asserted that further appointment ~~of~~ from the list of successful candidate was with-held in accordance with the instructions contained in the letter dated 10.4.84 of respondent no.2(copy annexure CA5). There was a total 16 vacancies allocated for U.P. Circle vide letter dated 3.8.83 of respondent no.2. A perusal of this letter would show that these 16 vacancies were to be further sub allotted to various divisions of U.P.Circle. There was nothing on record to show how many vacancies were sub allotted to the division of respondent no.1 but he did ~~not~~ consider first 13 candidates from the general list and two from the scheduled candidates and out of these 15 candidates only 10 candidates qualified for the final appointments. The contention of the petitioners that all the 15 candidates should have been medically examined and given an appointment, does not appear to be correct as all the 16 vacancies ear-marked for U.P.Circle could not be filled by the candidates selected by only one division of U.P.Circle. We are, therefore, unable to accept the contention of the learned counsel for the petitioners that respondent no.1 should have ~~been~~ given an appointment to all candidates succeeding in the written examination. We are of the opinion that the petitioners had not acquired any right of appointment by virtue of being successful in the written examination. The appointment of Group-D officials in the Army Postal Services was required to be made against available vacancies from amongst candidates recommended by all the divisions in U.P.Circle. We are, therefore, of the opinion that there has been no infringement of any

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right acquired by the petitioners in not offering them any appointment under the Army Postal Services.

7. The next point for consideration is whether the petitioners have any right of appointment against the vacancies notified by respondent no.1 on 16.4.1987 for which examination was being held on 5.7.87. It is admitted by the petitioners that these vacancies are different from Group-D vacancies in the Army Postal Services. The petitioners have themselves filed copy of letter dated 27.5.87 in which it is stated that there are only 7 vacancies, 3 of which are reserved for scheduled caste candidates. The respondents have stated that these vacancies relate to the cadre of Post man and Village Postman and not general Group-D vacancies as alleged by the petitioners in their supplementary affidavit. The contention of the petitioners that by virtue of their being successful in the examination held in June, 1983 for Group-D posts in the Army Postal Services, they are entitled to be appointed against these vacancies in the cadre of postman is not based on any departmental rules or instruction of a competent authority. We are unable to accept this contention of the petitioners. The Notifications dated 16.4.87 and 27.5.87 issued by the respondents is in the nature of inviting applications for appearing in the examination. If the petitioners did not apply for the same they have themselves to blame.

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For the reasons mentioned above, we find
no substance in the various contentions raised
by the petitioners. The petition is dismissed.
Parties shall bear their own costs.

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