

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.
ALLAHABAD

Dated: ALD on this 10th day of June 1997.

COURT: Hon'ble Mr Justice B C Saksena, V.C.
Hon'ble Mr S Das Gupta, A.M.

ORIGINAL APPLICATION No. 672 of 1992.

Abdul Hai, aged about 35 years, S/o
Shri Mohd Safi, Accountant, D/o The
Supdt. P.Os, Fatehpur, R/o 18-A
Pani Fatehpur, U.P. & others

Applicants.

C/A Shri A B L Srivastava

Vs.

1. The Union of India, through
The Secretary, Ministry of
Communications, (Dept of
Posts) New Delhi.

2. D.G. Posts, Govt of India
Dak Bhawan, Sansad Marg
New Delhi - 110 001.

3. The Chief Post Master General
U.P. Circle,
Lucknow 226 001.

Respondents

C/A Km Sadhana Srivastava

ORDER

(By Hon'ble Mr S Das Gupta, A.M.)

This application has been filed under section 19
of the Administrative Tribunals Act 1985 jointly by
10 applicants seeking a direction to the respondents
to declare their results in the examination held
in 1990 for promotion to the Grade of Inspector of Post
Offices/Inspector of Railway Mail Service. They have
further prayed that the respondents be directed to
keep the results of the examination proposed vide
D.G. Posts New Delhi notification dated 14.01.92

subject to the final decision in the application.

2. The averments in the application are somewhat confused. What can be made out is that the applicants appeared in the departmental examination for the cadre of Inspector of Post Offices/Inspector of Railway Mail Service in 1990. The applicants claim that the respondents should have declared the names of 74 candidates ^{as successful} in the said examination since there were 57 vacancies pertaining to 1990 and 17 vacancies pertaining to 1991. Their grievance is that the respondents declared result only in respect of 57 vacancies and that despite a direction given by a bench of Tribunal in U.A. No.964/90 which was filed by a person similarly placed as ^{the} applicants, the results of the applicants were not declared. Hence this application for the relief afores mentioned. The applicants have also alleged that the respondents have manipulated the results of some other candidates who also appeared in the 1990 examination in the garb of having secured marks equal to those obtained by the candidates already declared successful.

3. The respondents have filed Counter Affidavit in which it has been stated that the examination which was held for recruitment to the cadre of IFC/IRMS was a competitive examination. The vacancies to be filled through examination were notified as 57 by an order dated 31.5.90. The result was declared in respect of all the 57 vacancies by various notifications dated 17.6.90, 18.9.90, 16.10.90, 13.11.90 and December 1990 for 47, 2, 3, 3 and 2 vacancies respectively. Thus by December 1990 final results in respect of all the notified vacancies had been declared. The respondents have further averred that the applicants have got lesser marks than the last candidate in the select list and therefore, there was no question of notifying their names as successful candidates.

4. In the rejoinder affidavit filed by the applicants, certain departmental circulars have been relied upon in support of the contention that the vacancies of IPO/IRMS proposed to be filled on the basis of result of an examination should be circulated keeping in view the proposed vacancies for the year in which examination is scheduled to be held as well as anticipated vacancies likely to arise in the year following ^{the} year of examination. On this basis, the applicants have sought to show that the respondents should have filled 74 vacancies of IPOs.

5. A question similar to the one before us arose in O.A. No.964/90 filed by Mishree Singh Kushwaha & Others. A copy of the order of the Tribunal disposing of the aforesaid O.A. has been annexed as A-5. This order which is dated 17.1.91, appears to have been passed at the admission stage itself. It appears from the order that the grievance of the applicants in that O.A. was that they had appeared in the examination held in 1990 for selection to the post of IPO, the result of which was declared in Aug 90, but this was declared only in respect of 50 candidates whereas 74 candidates should have been declared successful in which case the applicants would have found a place in the select list. The Bench of the Tribunal disposing of this O.A. categorically held that it did not find any basis for such an allegation as it was absolutely the choice of the employer to select 74 or lesser number of candidates in an examination. The application was therefore held as not maintainable. However, a direction was given to the opposite parties to declare the results of the applicants so that they would come to know how they fared in the examination.

6. It is clear from the documents on record that the number of vacancies which were notified pertaining to the year 1990 was only 57. The remaining 17 vacancies in respect of which applicants were claiming benefit pertained to the year 1991, Even according to the applicants themselves, The respondents had actually notified 57 vacancies of IPOs in their notification dated 31.05.1990. Even if these 17 vacancies had also been notified for the examination held in 1990, the respondents would have been under no compulsion to fill all these vacancies. As held by a Bench of this Tribunal in O.A. No.964/90, it was upto the employer to select 74 or lesser number of candidates in the examination. The Hon'ble Supreme Court held in the case of Sankarashan Das Vs UOI 1991 SCC (L&S) 800 that even a selection through an examination does not confirm the indefeasible right to appointment for a person selected, even if the vacancies exist. In the case before us applicants were not even selected and therefore they can not claim that the respondents must fill whatever vacancies were available at the time of selection. The respondents have specifically averred that the applicants obtained lesser marks than the marks obtained by those who were actually selected. There is effective rebuttal of this averment by the applicants.

7. In view of the foregoing we find no merit in the application and the same is accordingly dismissed. The parties shall bear their own cost.

A.M. ,

V. C.