

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 9th day of April 2002

Original Application no. 98 of 1995.

Hon'ble Mr. Justice RRK. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, A.M.

1. Jayanti Prasad Shukla,
S/o Sri RL Shukla,
Extra Departmental Delivery Agent,
Branch Post Office, Katrauli,
Sub-Post Office Phulpur,
Distt. Allahabad.
2. Ram Bahadur Yadav,
S/o late Sri SN Yadav,
E.D.D.A., Branch Post Office Jagdishpur
Sub-Post Office-Phaphamau,
Distt. Allahabad.
3. Laxmi Kant Tripathi,
S/o Sri Rama Kant Tripathi,
EDDA, Branch Post Office Garapur,
Sub Post Office Sahson,
Distt. Allahabad.

... Applicant

By Adv : Sri KR Singh, Sri PK Khare
& Sri SN Srivastava

V E R S U S

1. Union of India through the Secretary,
Ministry of Posts,
New Delhi.
2. Director General Posts,
New Delhi.
3. The Chief Post Master General, U.P., Lucknow.
4. The Post Master General, Allahabad Region,
Allahabad.
5. The Senior Supdt. of Post Offices, Allahabad.

.... Respondents

By Adv : Km Sadhana Srivastava

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ORDER

Hon'ble Maj Gen K.K. Srivastava, Member (A).

In this O.A. filed under section 19 of the
A.T. Act, 1985 ^{Applicants} has challenged the result of Postman
Examination 1993 declared vide impugned letter dated
12.1.1995 (Ann 1) and has prayed that the same be
quashed and respondents be directed to declare the
applicant as successful ^{in Postman Examination 1993} with all consequential
benefits.

2. The facts, in short, giving rise to this O.A. as per applicants are that the applicant no. 1 Sri Jayanti Prasad Shukla was working as Extra Departmental Delivery Agent (in short EDDA) in Katrauli Branch Post Office under Phoolpur Sub Post Office, the applicant no. 2 Shri Ram Bahadur Yadav as EDDA in Jagdishpur Branch Post Office under Phaphamau Sub Post Office and applicant no. 3 Sril.K. Tripathi, as EDDA Garapur, Branch Post Office under Sahson Sub Post Office. The advertisement notice was issued on 22.4.1993 for filling 25 posts of Postman/Village Postman on promotion from officials of Group D and EDAs through Departmental Postman Examination 1993. The examination was held on 17.4.1994 in which the applicants appeared. They also participated in Cycle Tests on 20.10.1994 alongwith 40 candidates. The result of the examination was declared vide impugned letter dated 12.1.1995. The applicants requested for supply of marks sheet on 18.1.1995 and the respondents have not supplied the same. Hence, this O.A. which has been contested by the respondents by filing counter affidavit..

3. Heard Sri S.N. Srivastava, learned counsel for the applicant and Miss Sadhana Srivastava, learned counsel

for the respondents and perused records.

4. Sri S.N. Srivastava, learned counsel for the applicant submitted that the impugned order dated 12.1.1995 is illegal, 25 posts were advertised whereas the result of 26 candidates has been declared. Besides the examination in question for filling the vacancies was advertised on 22.4.1993 and therefore Memo dated 20.7.1997 regarding ⁱⁿ ^{to} reservation policy could not be given effect, retrospectively.

5. Sri S.N. Srivastava, submitted that the applicants result has not been declared on the pretext that there were only 25 vacancies in total for the year 1993, 1994 whereas 8 vacancies have been carried over from 1994 to 1995. ^{in that} The learned counsel further submitted/it is learnt from reliable sources that the applicants were in the select list but they have been excluded by following the reservation policy issued vide Memo dated 20.7.1994 retrospectively. The learned counsel for the applicant finally submitted that there were more than 40 vacancies when the result was declared on 12.1.1995 but instead of absorbing the successful candidates the respondents due to stiff attitude based on caste and other extraneous considerations declared result of 26 persons only.

6. Miss. Sadhana Srivastava, learned counsel for the respondents submitted that only 25 vacancies were declared to be filled by examination of 1993 which was held on 17.7.1994 and the examination held on 17.7.1994 has no concern with the examination of 1994 scheduled for 3.12.1995. The applicants were not declared successful, therefore, they could not be given promotion. Before the examination was conducted on 17.4.1994, a communication was received from

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Director General Posts (in short DGP) regarding reservation for OBC which was circulated vide Post Master General (in short PMG) Allahabad letter dated 11.3.1994 and received in the office of respondent no. 5 on 12.4.1994. As per circular there was no reservation for OBC in promotion, hence before ^h _h announcement of result the case was referred to P.M.G. Allahabad who clarified vide Memo dated 22.12.1994 that the reservation for OBC was to be given and therefore due representation to OBC officials was given in the above examination under reservation points.

7. Miss Sadhana Srivastava, submitted that actually result for only 25 vacancies has been declared but since 2 candidates secured similar marks, they have been bracketted. To appear in the cycle test does not mean that one has succeeded in examination. In fact 40 candidates participated in cycle test against vacancy of 25. Therefore, the applicants are not entitled to be declared successful because they participated in cycle test.

8. Miss Sadhana Srivastava, further submitted that no vacancy was carried forward from the vacancies of 1993-94 and vacancies for 1994-95 were calculated separately for which a separate notification was issued on 12.7.1995.

9. We have considered the submissions of the learned counsel for parties and perused records. The main grounds on which the applicants have challenged the result declared vide impugned letter dated 12.1.1995 are :-

i. The reservation policy has been incorrectly followed ~~marrying~~ the changes of applicants as there was no such mention regarding reservation in the notification dated 22.4.1993.

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ii. Result of 26 candidates has been declared vide impugned order dated 12.1.1995 against vacancies of 25.

iii. 8 vacancies were ~~not~~ carried forward to future examination for which a notification was issued on 12.7.1995.

As regards the first point that reservation has been incorrectly applied we are of the view that it is not so. We find force in the submission of the learned counsel for the respondents that respondents no. 5 i.e. Sr. Supdt. of Post Offices Allahabad on receipt of communication dated 11.3.1994 from PMG Allahabad, sought for clarification and declared the result on 12.1.1995 only after receiving the clarification of PMG Allahabad vide memo dated 22.12.1994. We do not agree with the allegation of the applicants that the attitude of respondents is based on caste and other extraneous considerations.

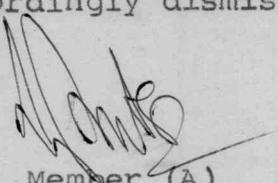
10. In regard to second point we have closely perused the impugned letter dated 12.1.1995 declaring the result of Postmen/Village Postmen examination 1993 and we find that as against vacancies of 25, list of 26/candidates has been declared including 16 on the basis of merit for general candidates. The respondents have argued that because 2 candidates at sl no. 3 of merit list of general candidates had to bracketed having obtained similar marks, they had to declare the result of 17 candidates as against 16 under this category. Hence the total number exceeded by one. The correct action on the part of respondents would have been to have assigned the seniority to the 2 bracketed candidates at sl no. 3 as per rules and then declared the results of only 16 candidates. In that event candidate Sri Chhote Lal at sl no. 16 would not have been selected.

More than 7 years have elapsed since the declaration of result on 12.1.1995, we would not like to intervene with the selection of Sri Chhote Lal at sl no. 16 of the impugned select list dated 12.1.1995 at this stage.

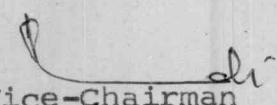
11. As regards the third point of the applicant challenging the impugned select list dated 12.01.1995 that 8 vacancies were carried forward to future examination, we would like to observe that the allegation is misconceived. In para 10 of the counter affidavit, dated 09.05.1996 of Sri Shyam Dhari the then SSPOs Allahabad, it has been explained in detail as to how were the vacancies worked out for 1995 examination. We agree with the averments made therein and are convinced that no ^{vacancy} was carried forward to 1995. The Postman examination/1993 was conducted for filling up 25 vacancies of Postman/Village Postman and the respondents have declared result accordingly.

12. The submission of the learned counsel for the applicant that there were more than 42 vacancies which has also been averred in para 4.xxi and 4.xxii is not based on facts and therefore the plea that 40 candidates including the applicants participated in cycle test and hence should have been declared successful has no force. The result had to be limited to the number of vacancies declared vide notification dated 22.4.1993.

13. In view of our aforesaid observations, we do not find any merit in the OA and find no good grounds to intervene. The OA is accordingly dismissed with no order as to costs.



Member (A)



Vice-Chairman