

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1641 OF 1999

ALLAHABAD THIS THE 7th DAY OF Feb, 2007

HON'BLE MR. JUSTICE KHEM KARAN, V.C.
HON'BLE MR. P. K. CHATTERJI, A.M.

Ram Ji Mishra Son of Late Sri Madan Mohan Mishra,
Resident of 1185/2 (A), Dadiapura,
Outside Baragaon Gate Jhansi City (District Jhansi)
Working as Postman, Jhansi City,
Post Office, Jhansi.

.....Applicant

By Advocate : Shri M.P. Gupta & Sri S. K. Mishra

Versus

1. Union of India,
through Secretary,
Department of Posts,
Government of India,
New Delhi.
2. Chief Post Master General,
Uttar Pradesh Circle,
Lucknow.

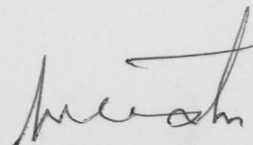
.....Respondents

By Advocate : Shri S. Singh.

ORDER

HON'BLE MR. P. K. CHATTERJI, A.M.

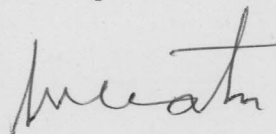
The applicant is a Postman working since 31.10.1991 at Jhansi Postal Division. The respondents conducted one examination for selection of Lower Grade Officials to the cadre of Postal Assistants against vacancies for the year 1996. The examination was conducted by the Chief Post Master General Uttar Pradesh Circle, Lucknow under his circular No.Tectt/M-75/LGO's Exam/96/5 dated 23.04.1995. A copy of the circular is attached to the OA as Annexure A-3.



2. The applicant was eligible to appear in the examination as per the requirements and he applied for the same. The examination was conducted on 28.07.1996. It was a combined examination for all units/divisions in Uttar Pradesh Postal Circle. The result of the examination was declared on 26.12.1996 by the Assistant Director, Postal Service Uttar Pradesh Circle Lucknow. A copy of the list of qualified candidates in the aforesaid examination is also attached with the OA as Annexure-1.

3. When the list of successful candidates was declared, the applicant found that his name did not figure in the list. It has been stated by the applicant that the examination was conducted for 174 vacancies whereas in the list, the names of only 128 qualified candidates were given, thus, leaving 46 vacancies in the whole circle. The applicant is aggrieved that on the basis of his examination, he should have been selected as he had secured an aggregate of 167 marks (as communicated by the respondents later). The qualifying marks were only 40% in the aggregate and, therefore, on this ground he should not have been declared unsuccessful.

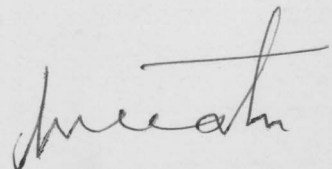
4. The applicant is further aggrieved that he was not given bonus marks as per Rule 5 (II) of the Posts and Telegraphs Manual Vol. IV, Part II (A). This rule prescribes that departmental candidate, who secured first place in Athletic/Aquatics at regional level,



should be given bonus marks of 2% of the aggregate marks obtained by him. The applicant fulfilled this qualification and, therefore, he was entitled to bonus marks, which was not given to him, thus, depriving him of an opportunity for selection as Postal Assistant.

5. The applicant is further aggrieved that the respondents deliberately kept on a good number of (46) posts unfilled. If these posts were also filled up, the applicant would have definitely got an opportunity for selection as Postal Assistant. It has been further alleged by the applicant that in contravention of the provision in the circular for examination, the result of the examination was declared division wise, while the examination was a combined examination for the whole circle. This also went against his interest. If the result was declared on circle basis, he would have stood a better opportunity for selection as Postal Assistant.

6. The applicant has requested the Tribunal to direct the respondents to produce list of all candidates in order of merit after giving him bonus marks and also direct them to assign proper place to the applicant in order of merit computed at the circle level. The respondents should also be directed to promote the applicant from the due date and give him consequential benefits.



7. In the reply, the respondents have denied all the allegations made in the OA. In their submissions, the respondents explained the scheme of the examination, which is usually held once in a year to fill up the vacancies in the posts of Postal Assistant from Lower Grade Departmental Officials. A list is drawn in order of merit on the basis of marks secured in the examination. The vacancies obtaining in the divisions are first filled up by the successful candidates belonging to the division in order of merit. If enough candidates from the division are not available to fill up all the vacancies, such unfilled vacancies are filled up from a pool of surplus qualified candidates.

8. After this first exercise such candidates who could not be placed in their own divisions are pooled up in a list of surplus candidates to fill up such vacancies in the divisions which could not be filled up by candidates belonging to the same division. In this way all the vacancies are filled up through the examination. The respondents clarified that although it was a qualifying examination, but it did not guarantee that all candidates securing 40% qualifying marks in aggregate would be promoted as Postal Assistant. The final selection would be based on a candidate's position in the merit list.

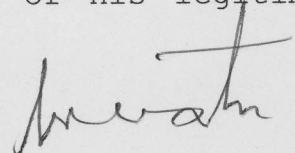
9. Regarding the allegation of the applicant that results were declared division wise, the respondents

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clarified that the vacancies were filled up as envisaged in the rules, and there was no aberration. They have further said that there was only one vacancy of Postal Assistant for filling up through LGO Examination at Jhansi division and the candidate having maximum marks from the division, 174, was selected. The applicant secured only 167 marks and, therefore, he could be provided a place in Jhansi Division. Even if bonus marks of 2% was added to his aggregate, that would make it 171 which would not qualify him. Therefore, the respondents cannot be charged for ignoring the legitimate claim of the applicant in any way.

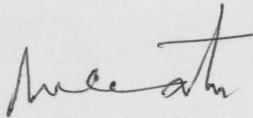
10. The respondents have further stated that the applicant also could not find a place in the surplus list of qualified candidates, because the surplus list, which was prepared after the initial exercise of filling up divisional vacancies through division's own candidates, had candidates securing much higher marks than the applicant. The marks of the last person in the surplus list was 208 whereas the marks obtained by the applicant was only 171 (after adding the bonus).

11. By stating the above facts the respondents contradicted point by point the allegations of the applicant and said that the examination was conducted in proper manner following the rules meticulously and scrupulously. They have denied that they had any intention to deprive the applicant of his legitimate

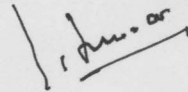


dues. The learned counsel for the respondents, while giving his arguments pointed that the OA was not maintainable for the reason that earlier the applicant had filed an OA in Lucknow Bench on the same issue and it was dismissed without any liberty to file another OA. However, in course of the arguments it came out that actually the OA was dismissed on the question of jurisdiction and while dismissing the OA, Lucknow Bench had given liberty to the applicant to file OA at the appropriate bench. Therefore, we are not going into the matter.

12. However, on the basis of the records and the facts noted above we are unable to find any merit in the OA, which is, therefore, dismissed. No Costs.



Member-A



Vice-Chairman

/ns/