

**RESERVED**

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD.**

ORIGINAL APPLICATION NO. 1642 OF 1999.

THIS THE 10<sup>th</sup> DAY OF AUGUST, 2005.

**HON'BLE MR. D.R. TIWARI, MEMBER-A**  
**HON'BLE MR. K.B.S. RAJAN, MEMBER-J**

S.P. Pathak, S/o late Rameshwar Dayal Pathak, R/o 179,  
Gopal Nagar, Post Office Naubasta District Kanpur.

.....Applicant.

By Advocate : Sri U. Nath.

Versus.

1. Union of India through Secretary Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General U.P. Circle, Lucknow.
3. The PMG, Kanpur.
4. The Sr. Supdt. Of Post offices, Kanpur City, Kanpur.

..... Respondents

By Advocate : Sri D.K. Awasthi. *Dwivedi*

**ORDER**

**BY K.B.S. RAJAN, MEMBER-J**

The controversy is narrow and unraveled. The Recruitment Rules for the post of Postal Superintendent and Postmaster Group B, which were separate for each of the post till 1987 were merged into one under the 1987 Rules and in respect of 6% of the vacancies, the mode of recruitment under the 1987 Rules was as under:-

*h*

6% from amongst general line of officials by means of a departmental competitive examination amongst officers belonging to Higher Selection Grade I (scale of pay Rs 2000-3200), Higher Selection Grade II (scale of pay Rs 1640-2900) and Lower Selection Grade (scale of pay Rs 1400-2300) with 5 years' regular service in either or all the 3 cadres together."

2. On the basis of the above Rules a case captioned **Sawan Ram Malra v. Union of India, 1995 Supp (3) SCC 620**, was decided by the Apex Court wherein the Apex Court has held -

The 1987 Rules expressly include "Inspector, Railway Mails" in the matter of promotion to the 94% posts. RMS has officials falling in the General Line. There are no words of limitation in the 1987 Rules in respect of "General line of officials" so as to exclude General Line Officials in the RMS. If Inspectors, Railway Mails, are eligible for promotion against the 94% posts there appears to be no reason why General Line Officials in the RMS should be excluded for the purpose of promotion to 6% posts which are to be filled by means of departmental competitive examination. On a bare reading of the provisions of the 1987 Rules all General Line Officials who belong to Higher Selection Grade I (scale of pay Rs 2000-3200), Higher Selection Grade II (scale of pay Rs 1640-2900) and Lower Selection Grade (scale of pay Rs 1400-2300) with 5 years' regular service in either or all the 3 cadres together are eligible to be promoted to 6% posts by

*means of the departmental competitive examination.*

3. These Rules subsequently came to be amended in exercise of power under proviso to Article 309 of the Constitution and became effective from 29-6-1994. Therein, Rule 2 and 4 provide thus:

*"2. In the Department of Posts, Postal Service Group 'B' Recruitment Rules, 1987 (hereinafter referred to as the 'said Rules'), in the Preamble for the words 'Postal Superintendent/Postmasters Group "B"' the words and letter 'Postal Service Group "B"' shall be substituted."*

Rule 4 provides the method of selection thus:

*"In the Schedule of the said Rules in Column 12 for the existing entries the following entries shall be substituted viz.,:*

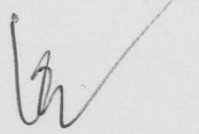
*By promotion*

*75% of the total posts shall be filled by promotion from amongst Inspectors of Post Offices and Inspectors of Railway Mail Service (pay scale Rs 1400-2300) with eight years' regular service in the grade."*

*Examinations for appointment by promotion are required to be conducted, as indicated therein thus:*

*"Promotion by examination*

*(i) 19% of the total posts shall be filled on the basis of a departmental competitive examination from amongst the Inspectors of Post Offices and Inspectors of Railway Mail Service (pay scale Rs*





1400-2300) with five years' regular service in the grade.

**(ii) 6% of the total posts shall be filled on the basis of the same departmental examination from amongst clerical line officials working in Post Offices/Divisional Offices with five years' regular service in the Lower Selection Grade and above." (emphasis supplied)**

(See *Union of India v. K.G. Kulkarni*, (1997) 4 SCC 345)

4. The applicant entered the Postal Service in early seventies and according to him he had obtained the HSG II grade five years anterior to the date of notification for the 1998 examination to the post of Postmaster Group B and was therefore, qualified under the 6% quota as contained in the Rules. However, he was not permitted to sit for the examination and hence this OA praying inter alia the following relief(s):-

"8(I) To pass order to conduct the fresh examination for the applicant to appear therein alongwith the declaration thereof or in any case the applicant be ordered to be treated as to have passed PS Gr. B examination 1997 held on 21/22.12.99 with highest merit or from the date of the declaration of the result of the said examination in favour of the applicant.

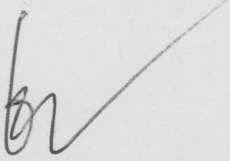
8(ii) To pass any other order or direction to the respondents deemed to be fit in the circumstances of the instant Original Application."

5. The above OA has been resisted by the Respondents. Their version is as contained in para 4 of the counter which reads as under:-

"That the applicant Sri S.P. Pathak was initially appointed as Postal Clerk. Later on he passed UDC Examination CO/RQ) and became UDC in R.O. Kanpur. Subsequently he was allowed BCR promotion with effect from 26.6.1993 while working as BCR official in R.O. Kanpour he was transferred to Kanpur City Division on the administrative grounds. He joined at Kanpur Cantt. H.O. on 1.1.1998 and is continuing as such thereafter. The P.S. Group 'B' Examination 1997 for General Line Candidates (6% quota) and IPO/IPM Line candidates (19% quota) was notified to be held on 29<sup>th</sup> and 30<sup>th</sup> October, 1998 and application from eligible candidates were invited. The applicant Sri S.P. Pathak PA Kanpur Cantt. HO also applied for appearing in the said examination. The date of above examination was postponed and later on it was re-scheduled for 21<sup>st</sup> and 22<sup>nd</sup> December, 1999. Sri S.P. Pathak again sent an application for appearing in the said examination. As per the eligibility condition of PS Group 'B' examination, only post office/Divisional office clerks having 5 years of service in LSG/HSG cadre are to be permitted to appear in the examination for General Line candidate (6% quota). As total service in LSG/HSG cadre in Postal Division in respect of the applicant was less than 5 years, he was not permitted to appear in the said examination and he was informed accordingly. Aggrieved with this, the applicant sent a representation to DG, Posts, New Delhi, which has been rejected vide DG New Delhi Comm. No. 9-25/99-SPG dated 31.1.2000 and the applicant has also been apprised of it. Being aggrieved by the said order dated 31.1.2000, the applicant has filed the aforesaid Original Application. It is further added that the applicant has himself shown him as PA (CO/RO) in the application form for appearing in the aforesaid examination."

6. Rejoinder has been filed by the applicant, reiterating his version as contained in the O.A.

7. Arguments advanced by the respective side had been heard and the documents perused. The controversy is whether the applicant fulfilled the conditions contained in the 6% quota for promotion by competitive examination. He relied upon the case of Sawan Ram Malra (supra) vide Ground NO. 7 and also contended that the post he held was in the General Line. On

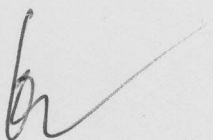


the other hand, the Respondents contend that the 6% quota is restricted purely to "**clerical line officials working in Post Offices/Divisional Offices with five years' regular service in the Lower Selection Grade and above**" that the applicant started functioning in Post Office/Division Office only w.e.f. 01-01-1998 and as such, he having not fulfilled the requisite qualification of 5 years in the Post Office/Division Office, he was not permitted to appear in the exam.

The Apex Court has dealt with the identical issue in the case of Kulkarni (supra). The finer distinction between "open line" and those working in Post Office/Divisional Office has been succinctly brought out by the Apex Court in the following words:-

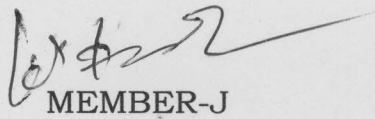
*9. However, in the present case, in view of the amendment made in 1994, the line of officials was specified, namely, clerks working in the Post Offices or Divisional Offices. The clerks working in the RMS, thereby, became ineligible to be considered in 6% quota reserved for them.*

8. What applied to RMS employee in the above case, applies to the applicant in this case, who had started functioning in the Post Office/Divisional Office only in 1998. The reliance placed upon by the applicant in Malra's case which was covered under the un-amended Rules, would not assist him as his case has to be tested with the amended rules, which has qualified the term of clerical line officials as "clerks working in Post Offices/Divisional Post Offices".





9. The application is, thus, devoid of merits and is, therefore, dismissed. Under the circumstances, there is no order as to costs.



MEMBER-J



MEMBER-A

GIRISH/-