

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 1st day of May, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 1049 OF 2000

Devi Din,
s/o Shyam Lal,
r/o village and PO Kashipur (Roora),
District Kanpur Dehat.

..... Applicant

with

ORIGINAL APPLICATION NO. 1050 OF 2000

Ram Vishanu Awasthi,
s/o late Sri Vishwa Narain Awasthi,
r/o village and P.O. Hathel,
District Kanpur.

..... Applicant

with

ORIGINAL APPLICATION NO. 1051 OF 2000

Ashok Kumar Yadav,
s/o Shri Badalu Prasad Yadav,
r/o village and P.O. Gangrauli,
Tehsil Akhbarpur,
District Kanpur Dehat.

..... Applicant

with

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ORIGINAL APPLICATION NO. 1052 OF 2000

Indrapal,
 s/o Shri Ram Bhajan,
 r/o village and P.O. Daheli,
 Moosanagar,
 District Kanpur Nagar.

..... Applicant

with

ORIGINAL APPLICATION NO. 1053 OF 2000

Aditya Narain Dixit,
 s/o Shri Madhav Prakash Dixit,
 r/o village Ganj Muradabad,
 Tehsil Safipur,
 District Unnao.

..... Applicant

with

ORIGINAL APPLICATION NO. 1054 OF 2000

Satendra Kumar Bajpai,
 s/o late Shri Shiv Sagar Lal Bajpai,
 r/o village and P.O. Sarwankherha,
 District Kanpur Dehat.

..... Applicant

with

Contd.. 3

ORIGINAL APPLICATION NO. 1055 OF 2000

Ramesh Chandra Trivedi,
 s/o late Shri Sita Ram Trivedi,
 r/o village and P.O. Pur, Rura,
 District Kanpur Dehat.

..... Applicant

with

ORIGINAL APPLICATION NO. 1056 OF 2000

Kanhaiya Lal Dohare,
 s/o Shri Riwati Lal,
 r/o village and P.O. Akaroo (Jhjhak),
 District Kanpur Dehat.

..... Applicant

with

ORIGINAL APPLICATION NO. 1057 OF 2000

Mohammad Rafique,
 s/o Shri Habibulla,
 r/o village and P.O. Gajner,
 District Kanpur Dehat.

..... Applicant

(By Advocate: Sri K.K. Tripathi
 in all the above nine OAs).

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Versus

1. Union of India, through Secretary,
Ministry of Post and Tele-Communication,
New Delhi.
2. The Director General of Post and Tele-Communication,
New Delhi.
3. The Chief Post Master General, U.P. at Lucknow
4. The Chief Post Master General,
Kanpur Region, Kanpur.

..... Respondents
(In all the above 9 OAs)

(By Advocate: Sri D.K. Dwivedi
in all the above 9 OAs).

with

ORIGINAL APPLICATION NO.487 OF 2000

Ram Khilawan,
s/o Sri Kanhaiya Lal Pathak,
r/o village and Post Office Usari,
District Kanpur Dehat,
presently posted as Extra Departmental
Branch Post Master at Usari,
District Kanpur Dehat.

..... Applicant

(By Advocate: Sri K.C. Shukla)

Versus

1. Union of India through
Director General of Post, New Delhi.
2. Chief Post Master General, Lucknow
3. Post Master General,
Kanpur Region, Kanpur.

..... Respondents

(By Advocate: Sri R.C. Joshi)

ORDER

(ORAL)

(Hon'ble Mr. S. Dayal, AM)

These are 10 Original Applications filed by ten different applicants, whose names are included in the list of surplus qualified candidates in the departmental examination for the cadre of Postman held on 22nd December, 1998, raise common issues on facts and law. They have been, therefore, heard together a common order is being passed.

2. The applicants have filed these applications for direction to the respondents to issue appointment letters to the applicants for the post of Postman, pursuant to the promotion list prepared by the office of Respondent No.3 and pay all consequential benefits.

3. The case of the applicants is that they were working as Extra Departmental Agents and applied for promotion to the post of Postman, when the department invited applications from them. They appeared in the examination for the purpose held on 22.12.98. It is claimed that a combined seniority list on the basis of examination was prepared, containing names of the applicants in order of merit. Respondents declared the result of examination for recruitment in the cadre of Postman held on 22.12.98, which contained the names of 9 candidates. It is stated that the respondents have issued appointment letters to 9 candidates included in the list, who were permitted to join at Kanpur (M) Division, but letters of appointment have not been

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issued to the applicants, despite their filing representatives before the respondents. It is claimed that a number of posts of Postman in Kanpur city division are still vacant, but no action has been taken by the respondents to issue appointment letters to the applicants.

4. We have heard arguments of Sri K.K. Tripathi for the applicants and Sri D.K. Dwivedi for the respondents. None remained present for the applicant as well as for the respondents in OA No.487 of 2000. But since that OA 487/2000 also refers to the same issue, orders are being passed along with other nine cases after considering the records of that case.

5. The respondents in their counter reply have referred to a circular letter of Directorate, bearing No.44-44/82-SRN-I dated 7.4.89, which provides that if sufficient number of EDAs cannot be recruited from the office, vacancies shall be thrown open to all the EDAs of the postal divisions located at the same station. If there are still some vacancies left, such vacancies shall be thrown open to the ED Agents in the region. In compliance with these instructions, 32 surplus qualified candidates of Kanpur City Division and Kanpur 'M' Division were allotted to Kanpur Hqrs. to overcome the shortfall of successful candidates in Kanpur Headquarters by P.M.G., Kanpur Office Memorandum dated 30.8.99. The question of appointment of these candidates was examined and in the light of the Directorate communication letter dated 20.5.93

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and Ministry of Finance letter dated 5.8.99, further action for the appointment of surplus qualified 32 candidates have been kept in abeyance by order dated 8.10.99. The order dated 8.10.99 reads as under:-

" In view of instructions of Ministry of Finance dated 5.8.99 issued under CPMG UP Circle D.O. letter No. Bgt/5-18/Monitoring/98-99 dated 2.9.99 and further endorsed vide this office endorsement No. Bgt/1-2/Monitoring/98-99-2000 dated 7.9.99 and 5.10.99, further action for the appointment of surplus qualified officials against the vacant posts of postman cadre may please be kept in abeyance till further order. The candidates may be informed in this regard.

This is in continuation of this office letter of even no. dated 30.8.99."

We find that the letter dated 8.10.99 makes a reference to the letter dated 20.5.93, which is regarding economy on administrative expenditure of government and ban on creation of Plan and Non-Plan posts/ filling up of vacancies- guidelines on processing of cases. This letter is for giving certain qualifications. One of the qualifications is that if a post is kept in abeyance and remained unfilled for a period of one year or more, it would be deemed to be abolished. The instructions of Ministry of Finance contained in Office Memorandum dated 5.8.99 required that no vacant posts should be filled up, except with the approval of Ministry of Finance and a review of the posts, which are lying vacant was to be done in consultation of Ministry of Finance. 10% reduction in the number of posts was also stipulated in the Office Memorandum.

6. The learned counsel for the applicant has drawn our attention to circular letter of APMG(Staff) of the office of Chief Post Master General, UP Circle, Lucknow addressed to Post Masters etc. to contend that the ban on filling up of vacant posts have been lifted. We do not find any stipulation in the circular letter, referred to above. There is a D.O. from Sri A. K. Das, Director (Staff) Department of Posts addressed to Chief Post Master General, in which it has been stated that Ministries/Departments could fill up those posts which have been vacant for less than one year and are to be filled up by promotion. This letter dated 16.11.2000 is in line with the letter of Joint Secretary, Government of India, Ministry of Finance dated 23.10.2000. The learned counsel for the applicant has also drawn attention to the notice issued by the Superintendent of Post Offices, Kanpur 'M' Division, Kanpur, inviting applications for combined PS Group 'B' Examination for vacancies of the years 1998-99 and contended that the ban is lifted. We find that this conclusion would be erroneous as the examination could have been filling up posts after held for/consultation with the Ministry of Finance, in terms of paragraph-2 of Office Memorandum dated 23.10.2000.

7. The issue, which arises now is whether the applicants in these cases have acquired a right to have appointment letters issued to them, pursuant to the promotion list, which contains their names.

Admittedly, the list dated 30.8.99 containing the

names of the applicants is of surplus qualified candidates, while the list contained in Annexure A-2 to the O.A. of 9 candidates is of those who had qualified for appointment to the existing vacancies. The applicants included in the list of surplus qualified candidates do not acquire the same right, as the right acquired by the candidates selected against the vacancies and whose names are contained in the list at Annexure No. A-2 to the O.A.

8. However, as the Respondents have not given appointment to the applicants against the vacancies in Kanpur Head Office on the ground of ban of the Department as well as Ministry of Finance, the question of appointment of the applicants may be considered as per rules for appointment, when such ban is lifted. The Applications stand disposed of with the above direction with no costs.

Rafiq Uddin

(RAFIQ UDDIN)

JUDICIAL MEMBER

S. Dayal

(S. DAYAL)

MEMBER (A)

Nath/