

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NOS 735,736 & 737 OF 1995
Cuttack, this the 29th day of August, 2002

Mohammad Mumtaz Ali (in OA 735/95)
Bidyadhar Gour (in OA 736/95)
Nrupamani Patel (in OA 737/95)....Applicants

Vrs.

Union of India and others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(M.R.MOHANTY)
MEMBER (JUDICIAL)

(V. SRIKANTAN)
MEMBER (ADMN.)

For convenience

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

O.A.NOS. 735, 736 and 737 of 1995
Cuttack, this the 29th day of August, 2002

CORAM:

HON'BLE SHRI V.SRIKANTAN, MEMBER(ADMN.)
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDL.)

.....

In OA No. 735/95

Mohammad Mumtaz Ali, a ged about 47 years, son of Md.Aboo Baker, resident of Kumbharpara, P.S-Sambalpur, P.O. Sambalpur, District-Sambalpur.

In OA No. 736/95

Sri Bidyadhar Gour, S/o Natabar Gour, R/o Vill-Gourpali, P.O/PS-Gourpali, Dist. Sambalpur,
Place of Employment - EDDA, At/PO Gourpali, Dist. Sambalpur.

In OA No. 737/95

Nrupamani Patel, aged about 44 years, son of Ghanashyam Patel, resident of Badabazar, P.S/Town/PO-Khetrajpur, Dist. Sambalpur

.....

.....Applicants

Advocates for the applicants - M/s G.N.Behera, R.B.Mishra, S.Mishra and R.N.Behera

Vrs.

1. Union of India, represented through Secretary, Ministry of Post & Telegraph, New Delhi.
2. Chief Post Master General,Orissa Circle, Bhubaneswar.
3. Director of Postal Services, Sambalpur.
4. Sub-Divisional Inspector of Post Offices (West), Sambalpur.
5. Senior Superintendent of Post Offices, Sambalpur Division, Sambalpur.
6. Jayadish Parida,EDMC, Sambalpur (SouthS.O.).
7. Bhabani Shankar Mohapatra, EDDA, Kulunda (Attabira), Dist. Bargarh.
8. Bikram Singh Dansena, Grade D, Jamuguda H.O.
9. Sarat Chandra Hota, BPM, Dharmasala (Ullunda)

10. Damodar Biswal, B.P.M, Kurla (Rengali)

11. Ashok Kumar Satpathy, BPM, Kubedega(Bheden)Dist.Bargarh

....Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.CGSC

O R D E R

V.SRIKANTAN, MEMBER(ADMN.)

All the three O.As. pertain to similar and connected matters and since the relief being sought for is same, these Applications are disposed of through a common order.

2.The applicants, in response to a circular, dated 7.11.1994, issued by respondent no.2, calling for applications for the departmental examination for promotion to the cadre of Postman, submitted their applications and also appeared at the eamination held on 9.7.1995.The results of the examination were announced on 11.10.1995 and based on the results, respondent nos. 6 to 11 were appointed as Postmen, while the applicants were overlooked. It is the contention of the applicants that respondent nos. 6 to 11, who have secured less marks than the applicants in the departmental examination, have been appointed, overlooking the claims of the applicants, and hence they have filed these Original Applications seeking the relief of directing the official respondents to transmit the mark-foils and all the papers/records in connection with the competitive examination held on 9.7.1995 and quah the appointments made, if the applicants are found to be above in rank to respondent nos. 6 to 11, and to appoint the applicants with retrospective effect

along with all consequential benefits.

3. The official respondents have filed their reply stating that there is no merit in the Original Applications. They have furnished detailed information in support of their case. It is, therefore, appropriate that the relevant portions should be extracted for better understanding of the case. The letter, dated 7.11.1994, under which the applications were called for the departmental examination is at Annexure R/I. In the annexure to this letter, the vacancy position is indicated, which is extracted as under:

"Vacancy position - Postman/Mailguard Cadres, 1993 and 1994

Sl. No.	Name of Divn.	Departmental				Total	Outsiders				Total.
		OC	SC	ST	OC		SC	ST	OBC		
1 to 12		—	—	—	—	—	—	—	—	—	
13.	Samb- alpur	04	01	01	06	03	01	02	01	07	

14...to 21"

It will be seen from this extracted Annexure that there were in all a total of 13 vacancies in the Postman cadre.

4. The recruitment method for the post of Postman is specified vide column 11 of Schedule to the Recruitment Rules. An extract of Column 11 is reproduced below:

"Col.11 - Method of recruitment -

- (1) 50% by promotion failing which by ED Agents on the basis of their merit in the Departmental Examinations.
- (2) 50% by ED Agents of the recruiting Division or unit in the following manner, namely:-

(i) 25% from among E.D. Agents on the basis of their seniority in service and subject to their passing the Departmental examination, failing which by ED Agents on the basis of merit in the Departmental examination.

(ii) 25% from amongst ED Agents on the basis of their merit in the Departmental examination.

(3) If the vacancies remained unfilled by EDAs of the recruiting Division, such vacancies may be filled by the EDAs of the Postal Division falling in the zone of Regional Directors.

(4) If the vacancies unfilled by EDAs remain unfilled by the EDAs of the recruiting units such vacancies may be filled by EDAs of the Postal Divisions located at the same station. Vacancies remaining unfilled will be thrown open to EDAs in the Region.

(5) Any vacancy remaining unfilled may be filled up by direct recruitment through the nominees of the Employment Exchange."

5. After the examination was held and the answer scripts evaluated, the results were declared on 11.10.1995. The official respondents have annexed the consolidated marks of all the examinees who were declared successful strictly in accordance with the method of recruitment, as also the declared vacancy position, which are as under:

Sl.No.	Name & Designation	Roll No.	Community.	Date of birth.	Date of appointment	Total Marks
<hr/>						
	<u>(A) (DEPARTMENTAL)</u>					
1.	Bikramsingh Dansana, Group "D"	5	OBC	1-7-70	23-2-90	129. 1/2
<hr/>						
	<u>(B) OUTSIDER (Extra Deptl. Agents) Seniority</u>					
2.	Bhabani Sankar Mahapatra, Extra Departmental	68	Unre- served.	20-10-51	15-9-73	110
3.	Jayadish Parida Extra Deptl.	79	-do-	4-4-56	28-2-74	93
4.	Mitrabhanu Chhatria, E.D.	168	S/T	20-4-51	5-5-75	69

5.	Usat Maha-nanda, ED.	184	S/C	12-5-55	7-9-77	76
<u>C) OUTSIDER (Extra Deptl. Agents) Merit:-</u>						
6.	Sarat Ch. Hota, ED.	92	Unre-served	26-4-65	30-12-89	135. 1/2
7.	Damodar Biswal, ED.	45	-do-	18-2-61	29-10-79	132
8.	Ashok Kr. Satpathy, ED.	14	-do-	4-8-67	4-8-88	129
9.	Pabitra Mohan Sunaik, ED	23	S/C	22-10-61	28-2-81	128
	(NB-From unreserved went to S/C)					
10.	Susil Kr Seth, ED	56	S/C	13-4-61	20-4-82	108
11.	Srinibash Bhoi, ED	80	S/T	22-10-60	16-12-80	102
12.	Chitrasen Naik, ED	84	S/T	1-7-63	13-12-83	100. 1/2
13.	Muralidhar Sahu, ED	(7)	OBC	9-11-63 XXX	18-4-86	121

DECLARED VACANCY

Total:- 13 (Thirteen)

(1) 50% of 13 vacancy. Departmental quota, i.e., from among the Group "D" employees = 6.

Unreserved

Reserved

4.	<u>S/C</u> 1	<u>S/T</u> 1	<u>O.B.C.</u> x	= 6
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(2) 50% of the 13 posts for outsider quota from among the Extra Departmental Agents = 7

100 Point Roster:-

Unreserved

Reserved

<u>S/C</u>	<u>S/T</u>	<u>OBC</u>
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3	1	2	1	= 7
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RECAST VACANCY:-

i) 50% of Departmental quota = 1, Unfilled = 5

ii) (a) Outsider seniority quota from among the Extra Departmental Agents = (100 point Roster)

(a) 25% of the 7 vacancy = 4.

<u>Unreserved</u>	<u>Reserved</u>			
	<u>S/C</u>	<u>S/T</u>	<u>OBC</u>	
2	1	1	x	= 4

(b) 25% of the 7 vacancies that is 3+ 5.
Posts remained unfilled from Deptl. Quota = 8.

<u>Unreserved</u>	<u>Reserved</u>			
	<u>S/C</u>	<u>S/T</u>	<u>OBC</u>	
4	1	2	1	= 8 "

6. The marks obtained by the applicants in these O.As. are as under:

- (i) Applicant in OA No. 735/95 secured 99 marks;
- (ii) Applicant in OA No. 736/95 secured 110 marks; &
- (iii) Applicant in OA No. 737/95 secured 112 marks.

7. As per the Recruitment Rules, 50% of the total vacancies are required to be filled up by promotion from Group-D officials who qualify in the departmental examination. Only one candidate from Group-D officials qualified in the departmental examination and accordingly, was selected for promotion to Postman cadre. Therefore, 5 posts of departmental quota remained unfilled. In terms of the Recruitment Rules, 50% quota for outsiders was again divided into one-half, i.e., 25% on merit from among E.D.As. and 25% on seniority subject to qualifying in the departmental examination from among E.D.As. As 7 posts were available, 3 posts were allocated for merit quota and 4 for seniority quota, the odd one being added to seniority quota as per rule. Further, the five posts remaining unfilled under the departmental quota were added to the merit quota, thereby raising the vacancies of merit quota to 8 as per rule and as notified initially. Thus, in all, 12

posts (8+4) were divided between different categories as per 100 point roster meant for the purpose as per rules and the results have been declared accordingly. The official respondents have furnished an extract of 100 point roster, vide Annexure R/IV, which is reproduced below:

"Sl.No.15 Orissa Circle

15 SC/ 23ST / 120 OBC

SC = 3, 11, 19, 23, 31, 35, 43, 51, 59,
63, 71, 75, 83, 87, 95 (15) points.

S.T.= 1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 41, 45, 49, 53, 57, 61, 6
65, 69, 73, 77, 81, 85, 89 (23) points.

O.B.C.= 7, 15, 27, 39, 47, 55, 67, 79, 91, 93, 97, 99 (12)
points."

8. It will be seen from the list of successful candidates that in the merit quota there were 4 unreserved vacancies and though successful candidate at Sl.No.4 of the merit quota belongs to the reserved community (SC), he has come against this vacancy on the basis of merit.

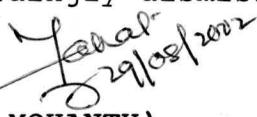
9. The ^{official} respondents have pointed out that the contention of the applicants that the appointment to the Postman cadre is purely on merit in accordance with the marks obtained by them in the examination, is not correct as the said examination was held both for merit and seniority from among E.D.As. as per rules. The official respondents have admitted that respondent nos.6 and 7 have secured less marks in the said examination. But respondent nos.6 and 7 are senior to the applicants and hence they have been

promoted to Postman cadre in the seniority quota and the official respondents have categorically stated that no other candidates who are junior to the applicants from among the EDAs have been promoted to the Postman cadre. As regards the applicants' claim with reference to respondent no.8, the official respondents have pointed out that respondent no.8 was a Group-D official and he has been promoted under the departmental quota strictly in accordance with the guidelines and the prescribed rules, and he had also secured 129.½ marks. As regards respondent nos.9,10 and 11, they have secured 135½, 132 and 129 marks respectively, which are higher than the marks secured by the applicants, and respondent nos.9,10 and 11 have been promoted under unreserved category in the merit quota of the outsiders from among the E.D.As. and no E.D.A., who had secured less than 112 marks has been selected and appointed. Accordingly, the applicants are not entitled to the promotion to the Postman cadre either in the seniority quota or in the merit quota under the outsider quota for EDAs and they are not entitled to be promoted under the departmental quota for Group-D employees.

10. It is clear from the above submissions made by the official respondents that even though the applicants have secured higher marks than respondent no.7 and one applicant has secured marks equal to that obtained by respondent no.6, i.e., 110 marks, they could not be promoted under the seniority quota as they were junior to respondent

respondent nos. 6 and 7. As regards respondent no.8, he being a Group-D employee has been promoted against departmental quota and had also secured higher marks than all the three applicants. Further, respondent nos.9,10 and 11, who have been promoted under the merit quota against unreserved vacancies, had all secured more marks than the three applicants. This being so, the selection and promotion made by the official respondents cannot be faulted.

11. For the above reasons, we do not find any merit in these Applications, and the Applications are accordingly dismissed. No costs.


(M.R.MOHANTY)

MEMBER (JUDICIAL)


(V.SRIKANTAN)

MEMBER (ADMN.)

AN/PS