

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For Admission

DB  
18/6/01

Bench

For Admission

DB  
20/7/01

Bench

Order dated 19.6.2001

When the matter was called for hearing, on behalf of Shri S.B. Mohanta, it was submitted by Shri H. Sahoo that the matter be adjourned to some other day as Shri Mohanta is out of station. In view of this, adjourned to 23.7.2001.

*[Signature]*  
Vice-Chairman  
Member

Order dated 23.7.2001

Heard Shri S.B. Mohanta, the learned counsel for the petitioner and Shri A.K. Bose, learned Senior Standing Counsel for the respondents and perused the records.

In this application the petitioner has prayed for a direction to the departmental authorities to readvertise the posts advertised under Annexure-1 fixing the upper age limit to 27 years. Respondents have filed their counter opposing the prayer of the applicant. For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that the Departmental authorities advertised and called for applications for the posts of Postal Assistants/Sorting Assistants in various Postal and Railway Mail Services Divisions vide notification under Annexure-1. In this notice it was mentioned that the candidates should be between 18 - 25 years of age as on 6.9.1999 and the upper age limit is relaxable upto five years for SC/ST and three years in case of OBCs. The applicant apparently belongs to General category and his date of birth is 6.7.1974, i.e., by 6.9.1999 which is the relevant date he had attained 25 years 2 months and thus was not eligible to apply in terms of notification under Annexure-1. His case is that the Department of Personnel and Training have

*[Signature]*

framed a Rule, called - "Central Civil Services and Civil Posts (Upper Age-limit for Direct Recruitment) Rules, 1998, which came into force with effect from 1st April, 1999. Rule-13-3 of the <sup>said</sup> Rule is quoted below :

"3. Increase in the upper age limit-

The upper age-limit for recruitment by the method of Direct Open Competitive Examination ~~to~~ the Central Civil Services and Civil Posts specified in the relevant Service/recruitment rules on the date of commencement of the Central Civil Services and Civil Posts (Upper Age-limit for Direct Recruitment) Rules, 1998, shall be increased by two years."

Note:-Direct-Open Competitive Examination for the purpose of these rules shall mean direct recruitment by Open Competitive Examination conducted by the Union Public Service Commission or the Staff Selection Commission or any other authority under the Central Government and it shall not include recruitment through Limited Departmental Examination or through shortlisting or by interview or through contract or by absorption or transfer or deputation.

Applicant has stated that according to this Rule, upper age-limit should have been 27 years and in view of this he has prayed for a direction to respondents to readvertise the posts advertised under Annexure-1 fixing the upper age-limit to 27 years. It has been also stated by the applicant that in the Public Advertisement issued by the West Bengal and M.P. Circles for the same posts of Postal Assistants/ Sorting Assistants, the upper age-limit has been fixed at 27 years and adoption of lower age-limit by the Orissa Circle is discriminatory.

Respondents have filed their counter opposing the prayer of the applicant. It is not necessary to refer to all the averments made by the respondents in their counter, because these will be referred to while considering the submissions made by Shri A.K. Bose, learned Senior Standing Counsel appearing for the respondents.

On a reference to the relevant rule

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it is seen that relaxation of age limit has been made for Direct Open Competitive Examination. It is also mentioned in the Note below Rule-3 that Direct Open Competitive Examination for the purpose of these rules shall mean direct recruitment by Open Competitive Examination conducted by UPSC, SSC and/or any other authority under the Central Government and it shall not include recruitment through Limited Departmental Competitive Examination or through shortlisting or by interview or by contract or by absorption or transfer or deputation (Emphasis provided). Respondents have also pointed out that, on a reference to the said ruling, the Department of Personnel & Trg. have clarified that ~~xxx~~ relaxation of age limit does not apply for recruitment to the Grade of Postal Assistants/Sorting Assistants. On a reference to Annexure-1, we find that under Para-3 of the advertisement procedure for selection has been laid down. The relevant portion of Para-3 is quoted below :-

"3. Procedure of Selection:

- (a) The percentage of marks obtained by the candidates in 10+2 or 12th class examination will be given 40% weighted. However, if a candidate possesses qualification of graduation/post graduation with or without the qualification of 12th/10+2 standard examination, then the percentage of marks most beneficial to the candidates would be taken into account for preparation of merit list. (b) Besides above, 5 marks will be given for knowledge of Typing in English at the minimum speed of 30 words per minute or 25 words per minute in Hindi for 15 minutes duration. (c) Another 5 marks will be awarded to a candidate for data entry qualification in computers who possesses requisite certificate from the authorised institution as accepted by Department of Posts time to time. A merit list of all the candidates on the basis of the above three components will be prepared and five times the no. of vacancies, the candidates will be called for the objective type tests and interview. (d) The aptitude objective type test will carry 30% weighted. (e) The interview will also be held which will carry 20% weighted. (f) The Department will conduct tests for typing and data entry in computers alongwith the interview for candidates who claim proficiency in these fields and then award marks. (g) Final merit lists will be prepared on the basis of:-  
(i) Weighted of marks obtained in the 10+2 or 12th class exam. or in graduation or postgraduation whichever is more. (ii) Marks in objective type test. (iii) Marks in typing and computer tests. (iv) Marks in interview".

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From the above it is clear that amongst all the candidates who had applied in response to Employment Notice their marks in 10+2 or 12th Class Exam. and marks in graduation and postgraduation will have to be taken into account and computed and accordingly merit list of the candidates will be drawn up <sup>and the candidates</sup> / five times the number of vacancies will be called for appearing at the objective type test, typing test, computer test and interview. From this it is clear that the procedure for selection ~~now~~ envisages for taking into accounts the marks obtained by the candidates in 10+2 Exam and higher Exam and shortlisting the candidates to the extent of five times the number of vacancies. It is also clear that the selection process involves shortlisting <sup>and</sup> / therefore, Rule-3, of the Rule, as quoted above, would not apply to this examination where shortlisting is involved in selecting the candidates.

In view of the discussions held above, we hold that the applicant has not been able to make out a case for any of the reliefs prayed for. The O.A. is held to be without any merit and the same is, therefore, rejected, but without any order as to costs.

MEMBER (JUDICIAL)

*Sannamam Sam*  
VICE-CHAIRMAN  
23.7.201

Copies of award  
dt 23.7.201 may be  
sent to him  
Court 2nd floor

*N*  
26.7.201

*23/7/201*  
*S013*