

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. 562/96

Present : Hon'ble Mr. Justice R.N. Ray, Vice-Chairman.  
Hon'ble Mr. B.P. Singh, Administrative Member.

Roy  
Sri Ashoke Kumar /and three others.

- v e r s u s -

1. Union of India through the  
Secretary, Ministry of Communication  
( Post and Telegraphs)  
Government of India, New Delhi.
2. The Chief Post Master General,  
West Bengal Circle,  
Yogayog Bhawan,  
Calcutta-700 012.
3. The Senior Superintendent,  
Railway Mail Service,  
Calcutta Airport Sorting Division,  
Calcutta-700 028.
4. The Head Record Officer,  
Calcutta Airport Sorting Division,  
Calcutta-700 028.

For the applicants : Sri S.K. Gupta, counsel.

For the respondents : : Ms. U. Sanyal, counsel.

Heard on 27.11.2000

Order on 07.12.2000

O R D E R

B.P. Singh, AM

Sri Ashoke Kumar Roy and three others have filed this O.A. against their non-appointment after being duly selected on the posts of Extra Departmental Mailman, E.D. Mailman) under Head Record Officer, Calcutta Airport Sorting Division and prayed for the following reliefs:-

"8.

xxx                      xxxx                      xxx                      xxx

- (b) An order be passed directing the respondent Nos. 3 and 4 to rescind, recall, cancel and/or withdraw the Memo No. Nil dated 5.12.95 and allow the petitioners to join in the

post of E.D. Mailman pursuant to the Memo No.B2-1/ED/Recruitment/AP dated Calcutta-28, the 29.11.95 issued by the respondent No.4 forthwith.

(c) An order be passed restraining the respondents not to take any step or further step to cancel Memo No. 132-1/ED/Recruitment/AP dated Calcutta-26 dated 29.11.95."

2. The fact of the case as appears from the application is that on sponsoring the names of the applicants by the Employment Exchange, Dum Dum, the Head Record Officer, respondent No.4 vide his letter dated 25.8.95 as per Annexure-A requested the candidates to submit their applications on the proforma enclosed <sup>to</sup> the terms and conditions mentioned in the letter are agreeable. The applicants applied accordingly and were interviewed for the posts. They were informed by respondent No.4 vide letter dated 29.11.95 enclosed as Annexure-B collectively that the applicants have been provisionally selected for appointment as E.D. Mailman on the given <sup>on</sup> terms and conditions and the names of the applicants appeared at sl. Nos. 13, 8, 7 and 11 respectively. The applicants enquired from the office of the respondent No.4 about their date of joining about which they were informed that they will be receiving instructions about the same. In the meantime, the applicants were given a copy of communication dated 5.12.95 as per Annexure-C by which they were informed that the order dated 29.11.95 containing the selection of the candidates including the applicants for appointment as ED Mailman has been kept in abeyance till final orders are issued by respondent No.3. The applicants waited for final order as they after being selected were not appointed on the posts. Some of them were crossing age

limit while in the case of others the family conditions were precarious. They approached the respondents for allowing them to join on the said posts but they could not get any response. As a result they made representations to respondent Nos.4, 3 and 2 on 1.1.96 vide Annexure-D collectively. Inspite of these representations, the applicants did not receive any reply and, therefore, being aggrieved filed the present O.A. and prayed for the reliefs cited above.

3. We have heard Sri S.K. Gupta, Id. counsel for the applicants and Ms. U. Sanyal, Id. counsel for the respondents. We have gone through the O.A. and reply to the O.A. with the annexures enclosed therewith. We have also gone through the rejoinder to the reply. The departmental records have also been produced and we have gone through them as well.

4. The Id. counsel Sri Gupta for the applicants reiterated the fact and submitted that respondent Nos. 3 and 4 have no authority, competence or jurisdiction to keep the posting order dated 29.11.95 in abeyance for an indefinite period without showing any cause or assigning any reason. The applicants were selected for ~~appointment~~ and appointment orders were issued in their respect by respondent No.4 and thus they have acquired the right of joining on the said posts and the same cannot be curtailed by an executive order. The executive order is thus whimsical, illegal and capricious in violation of Arts. 14 and 16 of the Constitution. Therefore, the Id. counsel submitted that the applicants are entitled to be appointed on the posts in reference to memo dated

29.11.95 by allowing this O.A. and granting the reliefs prayed for. In the rejoinder practically the same facts have been repeated by the applicants except that the grounds arrived at in the review of the selection have been ~~contested~~ contested by an attempt to justify that the provisions of rules regarding recruitment and selection of E.D. Mailman have been followed by the respondents and tried to fault with the review order.

5. The Id. counsel Ms. Sanyal for the respondents, contested the application except the facts corroborated by the documents/records and accepted in the averments. The Id. counsel submitted that the respondent No.4 placed a requisition at the District/<sup>Employment</sup> Exchange requesting to send a list of five times eligible candidates for filling up of 16 vacant posts of E.D. Mailman vide his letter dated 15.6.95 enclosed as Annexure-A to the reply. The Employment Officer was also requested to include proportionate number of SC, ST and OBC candidates in the sponsored list of the candidates. Accordingly the Employment Exchange sponsored 73 O.C. (other community) candidates, 15 O.B.C., 47 S.C. and 16 S.T. candidates—vide their letter dated 7.8.95 and 3.8.95 respectively which are enclosed as Annexure-B collectively. Meanwhile the respondent No.3 issued an instruction to respondent No. 4 in pursuance to respondent No.2 direction dated 23.6.95 to consider 18 E.D. nominees who ~~worked~~ worked ~~as~~ as E.D. substitutes from time to time in the Department alongwith the outsiders sponsored by the Employment Exchange. The respondent No.4 issued notice to all the candidates including 18 E.D. nominees to submit proforma report and copies of testimonials etc. to consider their

candidature in connection with the selection on the posts of E.D. Mailman. Thereafter the respondent No.4 prepared a list of provisionally selected candidates vide his letter dated 29.11.95 a copy of which is available as Annexure-C. The selection of E.D. Mailman was reviewed by the Chief P.M.G., respondent No.2. On review a large number of irregularities in the selection was established.

Accordingly the respondent No.2 vide his communication dated 4.4.96 set aside the selection order dated 29.11.95 and directed the appointing authority viz. respondent No.4 to make fresh selection of E.D. Mailman. The order of cancellation of previous selection was duly communicated to the candidates vide communication dated 6.5.96 enclosed as Annexure-D to the reply. The Id. counsel further submitted that the communication dated 5.12.95 enclosed as Annexure-C to the O.A. was an interim direction given to respondent No.4 to keep the order dated 29.11.95 in abeyance till final order was issued. The final order was issued on 6.5.96 vide Annexure-D by cancelling the selection according to which the orders were issued on 29.11.95. Thus the applicants have not been kept in wait for an indefinite period. They have been communicated the result of the review conducted by respondent No.2 by which the entire selection has been set aside. In view of the above the applicants should have no grievance whatsoever as departmental instructions, rules and procedures prescribed for the selection of E.D. Mailman were not followed and irregularities were committed by respondent No.4. As a result the entire selection was vitiated and was found irregular and illegal. The Id. counsel further submitted

that vide order dated 6.6.96 the Hon'ble Tribunal has restrained the respondents from making fresh appointment from outside quota on the posts of E.D. Mailman as the order dated 6.5.96 cancelling the selection/appointment was already issued. The Id. counsel, therefore, submitted that the Tribunal may consider vacating the above interim order and allowing the respondents to make recruitment/selection on the posts of E.D. Mailman by disallowing the O.A. and reliefs prayed for.

6. The relevant official documents/records have been produced before us. We find that the entire recruitment/selection on the post of E.D. Mailman in Calcutta Airport Sorting Division was reviewed wherein a number of serious irregularities in selection of E.D. Mailman were established. The entire review report was put up before the Chief P.M.G., the respondent No.2 who ordered to set aside the selection. The respondent No.2 further gave direction to the appointing authority viz. respondent No. 4 to make fresh selection for E.D. Mailman. Necessary order was issued to respondent No.3 to communicate the order to respondent No.4 and accordingly initially the respondent No.4 directed to keep in abeyance the posting order dated 29.11.95 till the final orders were issued. The final orders were issued on 6.5.96 by which memo dated 29.11.95 regarding appointment of E.D. Mailman was cancelled.

7. From the above it is clear that the recruitment process for the post of E.D. Mailman was started by respondent No.4 and selection was made by him by issuing the list of provisionally selected candidates on 29.11.95.

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The entire recruitment process was reviewed by the office of Chief P.M.G. viz. respondent No.2. In the review a large number of irregularities were noticed in the selection process. The entire review report was put up before respondent No.2 who agreed with the finding of the review report and ordered to set aside the letter dated 29.11.95 by which the list of provisionally selected candidates for appointment as E.D. Mailman was issued as well as any order of appointment in reference to that. He also directed that fresh selection of E.D. Mailman should be made by the appointing authority viz. respondent No.4. We do not find any irregularity in the order of respondent No.2 as he exercised a supervisory and control power in larger public interest. The respondent No.2 has further given direction to the appointing authority to make fresh selection of E.D. Mailman. Interim order was passed on 6.6.96 against this fresh appointment. We are of the view that the interim order should be vacated with direction to the respondent authorities especially respondent No.4 to make fresh appointment from outside quota from amongst the candidates who were considered for the selection on the post of E.D. Mailman in 1995 by following the departmental rules and instructions regarding recruitment and selection on the post of E.D. Mailman. The irregularities which cropped up in the selection in the year 1995 should be avoided by taking suitable action. All the candidates who were considered for selection in 1995 should be addressed on the available address under registered A/D cover about the next date of selection by giving

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reasonable time and all those who ~~were~~ present on the day and date of selection should be considered according to the provisions of the rules for selection on the post of E.D. Mailman and final list of the selected candidates should be prepared and issued and follow-up action for appointment of the approved candidates should be taken according to the rules. We, therefore, dispose of the O.A. by partly allowing the same with the following directions:-

- i) That the selection on the post of E.D. Mailman will be limited to all the candidates who applied/whose nominations were received from Employment Exchange/who were directed to be considered in 1995.
- ii) It should be ensured by the respondents that action is taken to remove all the irregularities pointed out in the review report of respondent No.2 before the date and time of fresh selection and fresh selection is made strictly according to the rules and instructions issued by the Department relating to selection of E.D. Mailman.
- iii) All such candidates should be addressed by registered A/D post intimating them the date and time for selection by a notice of, at least four weeks from the date of issue of the letter.

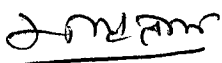
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- iv) The merit list of the selected candidates should be prepared according to the rules of selection and the same should be issued and exhibited on the notice board as well as the selected candidates should be informed individually about the same within a week after the last date of selection.
- v) Necessary action for appointment on the post of E.D. Mailman from the list of the selected candidates should be taken without any delay according to the departmental rules on the subject and attempt should be made to finalise the appointment process not beyond the period of three months from the date of issue of the select list.
- vi) The entire process from removing the irregularities to final appointment in this case should be completed within a period of five months from the date of receipt of this order by the respondent authorities.

8. We do not pass any order as to cost.

  
( B.P. Singh ) 07/12/2000  
Member (A)

  
( R.N. Ray )  
Vice-Chairman.

a.k.c.