

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 1430 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman  
Hon'ble Mr. S. Dasgupta, Administrative Member

Balaram Maity, ED Mail Peon Cum Packer  
KTPP NDSO, P.O. Mecheda, Dist. Midnapore (WB),  
Resident of Vill. Chimitia, P.O. Mecheda,  
Dist. Midnapore (WB), Pin - 721 137.

.... Applicant

-vs-

1. Union of India, service through the Director General of Post, Ministry of Communication, Govt. of India, Sanchar Bhavan, New Delhi ;
2. Chief Post Master General, West Bengal Circle, Yogayog Bhavan, Calcutta-12 (WB) ;
3. Post Master General, South Bengal Region (Howrah Region), Yogayog Bhavan, Calcutta-12 (WB) ;
4. APMG, South Bengal Region, Yogayog Bhavan, Calcutta-12 (WB) ;
5. D.P.S., South Bengal Region, Yogayog Bhavan, Calcutta-12 (WB) ;
6. Supdt. of P.O.s., Tamluk Division, P.O. Tamluk, Dist. Midnapore (WB) ;
7. Shri Tanumoy Das, Postal Assistant, Durgachak S.O. Durgachak, Midnapore & 17 Others.

.... Respondents

For applicant : In person

For respondents : Mr. S.K. Dutta, counsel

Heard on : 12.2.98, 7.4.98 & 19.5.98 - Order on : 3-6-1998

O R D E R

S.N. Mallick, VC

In this application, the petitioner, an Extra-Departmental Mail Peon Cum Packer of Kolaghat Thermal Power Project NDSO Post Office has prayed for his appointment in the post of Postal Assistant under Tamluk Division with effect from April, 1995 with

all consequential benefits on setting aside the order of the Superintendent of Post Offices, Tamluk Division dated 4.5.95 and the order of the ARMG, South Bengal Region dated 16.8.1996.

2. The petitioner has conducted his own case in person before this Tribunal. His case is as follows :

In 1994, in pursuance of a Notification as per Annexure A/2 dt. 15.3.94 issued from the Office of the Superintendent of Post Offices, Tamluk Division, departmental examination for promotion of Lower Grade Officials to the cadre of Postal/Sorting Assistant in subordinate offices was held on and from 11 to 13th May, 1994 against vacancies for the period from 1.1.93 to 31.12.94. The vacancy position was declared as 4 in O.C., 1 in SC and 1 in ST categories respectively. Only one OC vacancy has been filled up on the basis of the aforesaid examination and other vacancies remained unfilled. Thereafter, according to rules, the Superintendent of Post Offices, Tamluk Division, by a Notification dt.2.2.95 as per Annexure A/3, inviting applications from eligible ED officials for recruitment of TSPAS against unfilled departmental quota of vacancies. The petitioner submitted his application along with supporting documents as required under the said Notification by the date fixed therein. He having not been selected submitted a representation to the Superintendent of Post Offices dt.21.4.95 as per Annexure A/4 for review of non-selection of unfilled TSPAS vacancy of departmental quota in 1994 stating that the last open market candidate had been recruited on 68.1% marks. Referring to the amendment of (PA & SA) Rules, 1992 that an EDA would be eligible for being considered, who had secured not less than 10% marks in comparison to the last open market candidate considered, it was his prayer that he having scored 58.1% marks should have been selected and appointed as a Postal

Sorting Assistant. By a letter dt.4.5.95 as per Annexure A/5, he was informed by the Superintendent of Post Offices, Tamluk Division that the petitioner being an OC candidate was entitled for relaxation of 10% marks of the candidate of the same community in comparison with the marks obtained by the last candidate ~~was~~ selected. He was informed that the last OC candidate secured 72.7% marks and the applicant having secured only 58.6% marks could not be considered fit for such appointment. Against the aforesaid order of the Superintendent of Post Offices, the petitioner preferred an appeal to the P.M.G., Howrah Region on 12.7.95 as per Annexure A/6. The appellate authority, by its order dt.16.8.96 as per Annexure A/10 rejected the appeal preferred by the petitioner after consideration of the same. The petitioner has drawn our attention to the extant rules regulating the method of recruitment to the post of Postal Assistant and Sorting Assistant in the Department of Posts reproduced as per Annexure A/1, the relevant part of which runs as follows : -

"2. In the schedule to the department of posts (Postal Assts. and Sorting Assts) Recruitment Rules, 1990 against the post of Postal Assts/Sorting Assts. (in offices other than Foreign post Organisation) in column 11 in item(b) for the words "failing which by direct recruitment the following words shall be substituted namely : -

" failing which the unfilled vacancies shall be offered to Extra departmental agents of the Recruitment Divisions/ Units subject to their fulfilling the following conditions, and if vacancies remain unutilised by the EDAs they shall be filled by direct recruitment of other open market conditions, fulfilling the age and qualification conditions laid down in columns 7 & 8."

'(a) They possess the minimum educational qualification of 10+2 standard(Senior Secondary) and have put in minimum service of 3 years.'

(b) Only those Extra departmental Agents would be eligible for being considered who have secured, not less than 10% marks in comparison to the last open market candidate considered i.e. if in the last recruitment the last open market candidate selected had secured 75% marks, the Extra departmental Agents to be considered should have obtained at least 65% marks. Bonus marks as admissible to open market candidates will also be admissible

to those Extra departmental Agents who are Graduates or post-Graduates, and

(c) They should be within 35 years of age(40 years for SC/ST communities) as on the crucial date fixed for the last open market recruitment."

The petitioner has also drawn our attention to the clarification of the said rule issued by the Director(staff), which is to be found at Annexure A/8 dt.26.7.96 incorporating the clarification given by the Director(Staff) as per letter dt.7.6.96. The relevant part of the same runs as follows :-

".....the clarification issued with regard to allowing concession to the extent of 10% in the marks secured has been misinterpreted by some of the offices with regard to the manner of calculating the marks secured by last open market candidates and the BDA."

In this regard it is clarified that a merit list of open market candidates is to be prepared in the descending order of merit by totalling the marks obtained by them in,

- a) 10+2 examination.
- b) typing test
- c) Data Entry qualification
- d) Aptitude test
- e) Interview in the manner as elaborated in this office letter No.60-36/93-SPB-1 dated 28.2.95.

The merit list for EDAs is also to be prepared in a similar manner. As an example, if by doing so the last open market candidate has obtained seventy- five marks out of a total of hundred assessed as a result of all the above 5 components and an EDA secures sixty five or more marks in all the 5 components as mentioned above only then will he be considered for unfilled vacancies of the departmental quota."

According to the petitioner, the respondent authorities had illegally rejected his claim on the ground that the marks obtained by him cannot be compared with the marks obtained by a SC candidate in a reserved post and that for the purpose of relaxation of 10% marks, he was to be compared with the marks obtained by the last of OC candidate i.e. in the general category. According to the petitioner, there cannot be any such community-wise comparison as the aforesaid rules do not say so. Referring to Annexure A/11, the

petitioner has submitted that for Tamluk Division, only one post was made for the OC category and one post was made for ST category. The said advertisement does not appear any date and it does not help the petitioner in any way.

3. The respondents have contested the instant application by filing a reply. It has been averred in para-9 of the same that the last open market candidate referred to by the petitioner is a SC candidate and the said candidate was appointed against the reserved vacancy for SC community and the applicant being an unreserved candidate competing for OC vacancy, cannot compare himself with a SC candidate selected by the authorities. The contention of the respondents in para-9 of the reply may be quoted below :-

" Applicant being an unreserved candidate cannot claim any benefit of 10% concession against the open market candidate recruited against reserved vacancy but he is only entitled to such concession against an unreserved last open market candidate and as far record the last open market O/C candidate secured 72.7% mark and as such the applicant having secured less than 10% marks i.e. 58.6% cannot claim any appointment under the 10% concession provision as stated in the paragraph under reference. "

4. The question is whether under the rules, the petitioner can claim the benefit of 10% concession in relation to the marks obtained by a SC candidate or he is to be compared with the last candidate from the general unreserved candidate described as O/C. The petitioner has contended before us with reference to his averments made in the O.A. as well as in his rejoinder that the last of such candidate is a SC candidate, who secured 68.1% mark while the applicant had secured 58.6% marks and as such after getting 10% relaxation, he should be appointed as a PA/SA in terms of the extant rules and the qualification. According to him, both the

Superintendent of Post Offices and the appellate authority have mis-interpreted the rules and have rejected his prayer illegally.

5. After going through the materials on record and after considering the extant rules and the qualification, we do not find any substance in the petitioner's contention. The petitioner is a competitor from O/C category for the post of PA/SAX while working as E.D.D.A. One reserved post for the SC category has been filled up by a candidate belonging to such category. The respondents have produced the relevant office records relating to the recruitment of TSPAs from EDAs, which show that one SC candidate, namely Sri Biswanath Das was selected in the reserve post for such community after securing 58.1% marks and in the other category i.e. in the general category, the marks position of three candidates are 63.6%, 63.2% and 62.7% respectively plus 10% bonus marks. The above three such candidates from the other categories have been selected. Next below the last candidate so selected being Bablu Das, is one Jabarani Karan, who has scored 62.7% marks plus 10% bonus marks, but she was not selected. It would be reasonable for the petitioner to say that he should be compared with the SC candidate for the purpose of such appointment. He coming from the O/C category cannot compete for a post reserved for the SC category and as such there cannot be any foundation of his claim with reference to the SC candidate. His prayer has been rightly rejected by the respondent authorities and we do not find any lawful reason to interfere with the impugned orders passed by the respondent authorities.

6. In view of the above, there is no merit in this application, which must be dismissed. Accordingly, the application is dismissed. No order is made as to costs.

  
( S. Dasgupta )  
Member(A)

  
( S.N. Mallick )  
Vice-Chairman