

2/12
E/8

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 12/2005

Date of decision: 09.05.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. R.R. Bhandari, Administrative Member.

Bhawani Singh, S/o Shri Bheek Singh Ji aged 49 years resident of Sardarpura, Near Dr. Mahanad Sharma's House, Barmer (Rajasthan) Official Address : EDMC, Post Office Langera Distt. Barmer.

:Applicant.

Rep. By Mr. R.S. Saluja : Counsel for the applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communication Dak Bhawan, Postal Department, Government of India, New Delhi.
2. The Post Master General, Main Post Office, near Railway Station, Jodhpur.
3. The Superintendent Main Post Office, Barmer.
4. Asstt. Superintendent of Posts, Main Post Office, Barmer.

:Respondents.

Mr. M. Godhara proxy counsel : Counsel for the respondents
For Mr. Vinit Mathur

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

In this O.A the applicant has prayed for the following reliefs:

That by an appropriate order or direction the rule which prescribes that there will be an age limit for 28 years for candidates belonging to general category for promotion to the post of Postal Assistant may kindly be declared ultra vires Articles 14 and 16 of the Constitution of India.

ii) That consequent to the aforesaid respondents may kindly be directed to permit the petitioner to appear in competitive examination and if found suitable then to appoint him."



K

- 2 -

The applicant states that he belongs to general category and he was appointed as EDMC on 17.10.78 and he is possessing the qualification of Higher Secondary. He further states that at the time of his initial appointment, there was no promotional avenue and EDMC were made eligible to become Postal Assistant/Sorting Assistant by way of selection only in the year 1995. Thereafter applications were invited for filling up the post of Postal Assistant in the years 1997, 2000 and 2002. During that period the upper age limit was prescribed as 35 years and as the applicant was over 35 years he was not permitted to appear for the tests. But the upper age limit of 35 years was further reduced to 28 years vide order dated 25.01.2002. Again another notification was issued on 21.01.2004. The applicant also submitted his application but he was informed that due to over age he cannot be permitted to appear in the examination. The applicant further states that when he was appointed in 1978 he was only 23 years and since at that time no promotional opportunities were there for EDMCs, he should be permitted to appear in the examination. In the grounds of challenging the same the applicant has stated that the Apex Court and other courts have held that every employee should be given two promotional opportunities during his career and the respondents by fixing the upper age limit, curtailed the career prospects of the applicant and the same is illegal and ultra vires of Article 14 and 16 of the Constitution of India. He further stated that the action of the respondents in fixing the upper age limit for promotion is wholly uncalled for. Therefore he prayed that he should be permitted to appear in the selection and the O.A should be allowed.



2/14
Ito

- 3 -

2. The respondents have resisted the O.A by filing a detailed reply. It is stated that the applicant is over 50 years of age and the upper age limit prescribed for EDA is 28 years vide Annex. R/2 dated 25.01.2002 and therefore he was not permitted to appear in Postal Assistant Recruitment against unfilled vacancies. It is further stated that promotion avenue for EDMCs is to the post of Group D and Postman cadre only and EDMCs cannot be promoted as Postal Assistant. As the applicant is over 50 years of age, the applicant is only eligible for appearing in the departmental competitive examination for promotion to the cadre of Postman and Group D only and not for Postal Assistant. They have prayed for the dismissal of the O.A.

3. We have heard the learned counsel for both sides. We have also carefully perused the records and pleadings of this case. The applicant has prayed for that he should be permitted to appear in the examination for the post of Postal Assistant/Sorting Assistant. In the notification dated 25.01.2002, the upper age limit prescribed for general category departmental candidate is 28 years and as the applicant is over 50 years, the respondents have rightly not permitted the applicant to appear in the selection for the post of Postal Assistant /Sorting Assistant. As EDAs are eligible to appear in the examination meant for the post of Group D/ Postman, no fault can be fastened with the action of the respondents. Applicant has also failed to convince the Court as to how he has been discriminated or his rights have been violated.



Km

2/11 9/15

-4-

4. In view of the foregoing discussions, the O.A is devoid of any merit and the same is accordingly dismissed. No costs.

R. Bhandari

(R.R Bhandari)
Administrative Member

K. K. Sengupta

(K. K. Sengupta)
Vice Chairman.

Part II and III destroyed
in my presence on 03-6-14
under the supervision of
section officer () as per
order dated 26-3-14

Section officer (Record)

Two (2) copy
of
Shorwan Singh

G
14/5