के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत वि: शुल्क प्रति

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

O.A. Nos. 82, 299, 301, 319, 320, 329, 453, 454, 455, of 2012 AND
O.A. Nos. 35 and 92 of 2013 WITH
M.A.No. 216/2012 [OA No.455/2012]

Jodhpur, this the 09th May, 2013.

CORAM :

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J)
Hon'ble Ms. Meenakshi Hooja, Member (A)

Har Govind Sharma S/o Shri Gulab Chand Sharma, Aged about 63 years, R/o Plot No. 02, Roop Nagar, Digarikallan, Jodhpur, Rajasthan. The applicant was working on the post of Mail Guard in the O/o Superintendent RMS, ST. Division, Jodhpur, Rajasthan

Applicant in OA No 82/2012

Versus

1. The Union of India through the Secretary, Ministry of Communication, Dak Bhawan, Dak Vibhag, New Delhi.
2. The Chief Post master General, Rajasthan Circle, Jaipur.
3 The Post Master General, Western Region, Jodhpur.
4. The Superintendent, Railway Mail Service, ST. Division, Jodhpur.

Respondents

S.S. Singh Bhati, S/o Late Shri Budh Singh, Aged about 58 years, b/c-Rajput, R/o Plot No. A-4, P&T Colony, Jodhpur.(Office Address:-Working in Sastrinagar Post office as Postal Assistant in Postal Department)

Applicant in OA No 319/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, Dak Vibhag, New Delhi.
2. Union of India, through the Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Sr. Superintendent of Post offices, Jodhpur Division, Jodhpur.

Respondents

Bansi Lal Nai, S/o Shri narain lal, Aged about 57 years, R/o Pratap nagar, Mitharamji ka Khera, Chittorgarh.(Office Address:- Working as Sorting Assistant, RMS, 'J' Division, Chittorgarh)

Applicant in OA No 320/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, , New Delhi.
2. Union of India, through the Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3. The Chief Postmaster General, Rajasthan Circle, Jaipur
4. The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
5. The Asst. Postmaster General (S&V), For Chief Postmaster General, Rajasthan Circle, Jaipur.
6. Superintendent, RMS 'J' Division, Ajmer.

Respondents

T.D. Vaishnav S/o Shri Chaturbhuj Vaishnav, Aged about 58 years, b/c – Brahman, R/o H.No. 10/329, Chaupasani Housing Board, 1st Pulia, Jodhpur(Office Address:- Working as SPM at Boronada SO Post office in Postal Department, retired on 30.04.2011)

Applicant in OA No 329/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Sr. Superintendent of Post offices, Jodhpur Division, Jodhpur.

Respondents

B.L. Vaishnav, S/o Shri Ram Chandra Vaishnav, aged about 62 years, b/c Brahman, R/o H.No. 10/239, Chaupasani Housing Board, 1st Pulia, Jodhpur (Office Address:- Retired on 14.01.2009 as Postal Assistant, last posting at Jodhpur HO in Postal Department)

Applicant in OA No 453/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Sr. Superintendent of Post offices, Jodhpur Division, Jodhpur.

Respondents

Champa Lal S/o Late Shri Krishna Ram, aged about 61 years, R/o Near Pau Beri, Ambedkar Chauk, Bikaner.(Office Address:- Working as Postal Assistant at Bikaner HO in Postal Department)

Applicant in OA No 454/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Sr. Superintendent of Post offices, Bikaner Division, Bikaner.

Respondents

Chola Ram Gaur S/o Shri Jetha Ram, aged about 54 years, b/c-Brahman, R/o H. No. 11/75, Purohito ka Bas, Maderna Colony, Jodhpur, District - Jodhpur(Office Address:- Laxminagar Post Office, working as Postal Assistant)

Applicant in OA No 455/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Chief Postmaster General, Rajasthan Circle, Jaipur
4. The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
5. The Sr. Superintendent of Post offices, Jodhpur Division, Jodhpur.

Respondents

Uka Ram S/o Shri Jessaji, aged about 62 years, b/c – Meghwal (SC), R/o Shantpur, Abu Raod, Dist - Sirohi(Office Address:- Retired on 31.01.2011 as Postal Assistant, last posting at SPM Seodar Post Office, under Sirohi HO in Postal Department)

Applicant in OA No 35/2013

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Superintendent of Post offices, Sirohi Division, Sirohi.

Respondents

Shanti Lal Solanki S/o Late shri Kallji Solani, aged about 61 years, R/o Shanpur, Abu Raod, Dist – Sirohi,(Office Address:- Retired on 31.05.2012 as Postal Assistant, last posting as SPM Junjani post office, Postal Department)

Applicant in OA No 92/2013

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. The Superintendent of Post offices, Sirohi Division, Sirohi.

Respondents

B.L. Verma, S/o Shri Balu Ram, aged about 60 years, b/c Kumhar, R/o Plot No. 62, Balaji Nagar, Near Bijlighar, Salawas Road, Jodhpur.(Office Address:- HO Jodhpur, worked as APM Jodhpur HO, Postal Department)

Applicant in OA No 301/2012

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Trailing, New Delhi – 110 001
3 The Director Postal Services (HQ), O/o Chief Postmaster General, Rajasthan Circle, Jaipur – 302 007
4. Director of Accounts, Accounts (Postal) Jaipur.
5. The Sr. Superintendent of Post offices, Jodhpur Division, Jodhpur.

Respondents

S.N.Singh Bhati S/o Late Shri Sultan Singh Bhati aged about 61 years, by caste Rajput resident of Plot No. 18 Khajerla House, Paota 'B' Road, Jodhpur, Office Address Retired and last working place HO, Jodhpur, worked as APM Jodhpur HO in Postal Department).

Applicant in OA No 299/2012

Versus

1. Union of India through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. Union of India through the Secretary Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, New Delhi – 110 001.
3 The Director Postal Services (HQ), Office of Chief Postmaster General, Rajasthan Circle, Jaipur – 302007.

4. Director of Accounts, Accounts (Postal), Jaipur.
5. Senior Superintendent of Post Offices, Jodhpur Division, Jodhpur.

Respondents

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Through Adv. Mr. S.P.Singh and Mr. D.S.Sodha, for applicants.
Through Adv. Smt. Kausar Parveen, for respondents.

ORDER (Oral)
[PER K.C.JOSHI, JUDICIAL MEMBER]

This order will govern the disposal of 11 OAs bearing Nos. 82/2012, 319/2012, 320/2012, 329/2012, 453/2012, 454/2012, 455/2012, 35/2013, 92/2013, 299/2012 and 301/2012. These applications are being decided by a common order because in all these OAs a common question involved is whether the employees of the Postal Department when they initially entered on the post of GDS or Mail Guard or Group 'D' servant and were further selected on the various higher posts of Mail Guard and Sorting Assistant/Postal Assistant were entitled to get the benefit of III MACP on completion of 30 years of service.

2. In OA No. 35/2013 although the notices have not been issued but Smt. Kausar Praveen Advocate appeared on behalf of the UOI and put her appearance and without there being any reply filed we are going to decide this application also, for the reason that the issue involved is the same question. In OA No. 92/2013 also, the reply has not been filed by the UOI but on the submission of both the parties, we are going to decide this application also, without there being any formal reply filed

by the UOI because in similar matters involving the same controversy the replies have been filed by the department.

3. Without burdening the judgment with unnecessary facts we are coming directly to the controversy in issue.

4. The controversy involved in all these applications can be summarized by framing the following issues which emerge for consideration from the pleadings of the parties :

1- Whether the applicants were promoted to the post of Mail Guard or Sorting Assistant/Postal Assistants or it shall be deemed to be a case of direct recruitment in view of the fact that they got the higher posts on the basis of passing the Limited Departmental Competitive Examination ?

2. Whether the order of the respondent – department in granting the III MACP to all the applicants vide the impugned orders were erroneous ?

3. What relief, if any, can be granted to the applicants.

5. Counsel for the applicants contended that the similar controversy arose in OA No. 382/2011 – Bhanwar Lal Regar and Others Vs. UOI and Ors. which was decided on 22.05.2012 and further contended that in OA Nos. 137/2012, 361/2012, 362/2012, 20/2012, 21/2012, 22/2012, 29/2012, 210/2011, 211/2011, 408/2011 and 294/2012, the same controversy has been decided by the Division Bench of this Tribunal on 13.09.2012. While interpreting the various provisions of the rules, the III MACP granted to the similarly situated persons has been held to be legal and the order of the withdrawal of the III MACP has been

quashed by the Bench while relying upon the various judgments of the Hon'ble Apex Court. In the aforesaid orders of this Tribunal it has been held that induction to the post of Mail Guard from the post of Group 'D' or from the post of Postman to the post of Postal Assistant or from the post of Mail Guard to the post of Sorting Assistant or from the post of Group 'D' to the post of Postal Assistant were not promotions but direct recruitments in view of the selection being based on Limited Department Competitive Examination, as prescribed under the rules.

6. The counsel for the applicants further contended that in the case of Rameshwar Mali, a similarly situated employee, the benefit of the III MACP withdrawn by the Department has been restored and he referred to, Annex.A/10 order of the restoration passed by the Accounts Officer (Pension), Jaipur annexed in OA No. 01/2012 B.C.Verma vs. UOI and Ors.

7. The counsel for the applicants stated that there is a consistent view since 2012 taken by this Tribunal holding such inductions are direct recruitments and therefore they were held to be eligible for the III MACP and the order of withdrawal of the MACP were quashed and there is no reason to take a different view from what has been held by the Division Bench of this Tribunal in aforesaid cases.

8. Per contra the counsel for the respondents vehemently defended the impugned orders and reiterated the view or stand taken in the replies.

9. The counsel for the applicants further contended that the UOI has filed Writs against the orders cited by him and the matter is under consideration before the Hon'ble High Court to which the counsel for the respondents does not dispute.

10. We have considered the entire record and also the judgments cited by the counsel for the applicants passed in OA No. 382/2011 with judgment of Bhanwar Lal Regar passed on 22.05.2012 and also the judgment passed in OA No. 137/2012 and other petitions on 13.09.2012. No new stand has been taken by the counsel for the respondents in the present case.

11. We are not burdening our judgment by mentioning of the facts of each and every case only for the reason that the matter in issue being the same and there is a consistent view of the D.B. of this Tribunal in the similar issues. Therefore, we are allowing all these OAs in the light of the judgment passed by the Division Bench of this Tribunal in Bhanwar Lal Regar and further the order dated 13.09.2012 passed in OA No. 137/2012 and other petitioners. We answer the above two questions in the similar way as answered by the Division Bench of the Tribunal in OA No. 137/2012 and in judgment dated 13.09.2012 and accordingly we allow all the OAs while quashing the impugned orders with no orders as to costs. The M.A. No. 216/2012 filed in OA No. 455/2012 for condonation of delay is allowed for the reasons stated in the application.

[Meenakshi Hooja]
Administrative Member

[Justice K.C. Joshi]
Judicial Member

COMPARED & CHECKED

CERTIFIED TRUE COPY
Dated....22.5.2013

Section Officer (Judl.)
Central Administrative Tribunal
Jodhpur Bench, Jodhpur.