

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.465/2003

Dated Thursday this the 13th day of November, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

J.Jayalakshmi
W/o K.K.Ananda Babu
Office Assistant (TBOP)
Office of the SSRM, TV Division
Thiruvananthapuram.

Applicant.

(By advocate Mr.Sasidharan Chempazhanthiyil)

Versus

1. Senior Superintendent of Railway
Mail Service, TV Divison
Thiruvananthapuram.
2. Chief Postmaster General
Kerala Circle
Thiruvananthapuram.
3. Director General
Postal Department
New Delhi.
4. Union of India represented by
its Secretary
Ministry of Communications
New Delhi.

Respondents.

(By advocate Mr.M.Rajen^drakumar, ACGSC)

The application having been heard on 13th November, 2003,
the Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant, working as Office Assistant (TBOP) in the office of the Senior Superintendent of Railway Mail Service (SSRM), Southern Railway, Trivandrum Division, applied for participating in the PO & RMS Accountants Examination in response to the notification issued on 27.2.03 (Annexure A-1). Although she satisfied all the eligibility criteria, A-2 dated 20.5.03 was served on the applicant a day previous to the examination,

informing that she was not eligible to take the examination as she had received TBOP. The applicant submitted a representation pointing out that she was still working as a Postal Assistant and had not become LSG and therefore she was eligible to take the examination. The representation was rejected by A-7 order dated 22.5.03. Aggrieved, the applicant has filed this application seeking to set aside the impugned orders A-2 & A-7, for a declaration that she was entitled to take the examination and for a direction to the respondents to conduct a fresh examination for her keeping in abeyance further proceedings pursuant to A-1 till this is done.

2. It is alleged in the application that in terms of A-3 letter dated 3.7.84, there was no embargo in the applicant being permitted to appear in the examination. The denial of opportunity to the applicant for participating in the examination is violative of service rules and fundamental rights guaranteed under Articles 14 & 16 of the Constitution of India, alleges the applicant.

3. Respondents have filed a reply statement and an additional reply statement. In the reply statement, they seek to justify the impugned action of denying the applicant permission to appear in the examination on the ground that the applicant having been promoted to TBOP, she was not eligible to take the examination. However, in the additional reply statement, the respondents have conceded that in the light of R-2 clarification issued by DG (Posts) dated 1st August, 2003, the applicant who was only a TBOP official was entitled to take the examination and the applicant



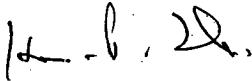
would be permitted to take the examination when it is held next year.

4. We have gone through the application and the material placed on record and have heard the learned counsel on either side. In view of the statement in the additional reply statement that the applicant was eligible to take the examination as has been clarified by D.G.(Posts) in his clarificatory letter R-2, the controversy on this issue narrows down to a considerable extent. While the applicant's candidature was rejected by A-2 and the rejection was fortified in A-7, taking a stand that the applicant was promoted to TBOP and therefore she was not entitled to take the examination, the clarification contained in R2 makes it clear that this view was wrong and baseless. Even otherwise, since the grant of higher pay scale under TBOP not being a promotion but only a financial upgradation, the incumbent who got the financial upgradation still remained in the same status. The applicant should have been granted permission to take the examination for professional advancement. Refusal on the part of the respondents to give permission to take the examination is therefore unsustainable. The question is what relief is to be granted in the circumstances of the case to the applicant. To hold a separate examination for the applicant alone in between will not be an easy process. Qualifying examination should be of uniform standard. Papers should be set and valuation done, even ^{then} though it may not be possible to maintain uniformity. Therefore, we are of the considered view that the interest of justice would be met if it is directed that, before filling up the existing vacancies for which examination was held as per A-1

notification, a similar examination should be held permitting the applicant also to appear and if the applicant qualifies in that examination, it should be deemed that the applicant qualified in the examination pursuant to notification A1, and considered for appointment to the cadre of PO & RMS Accountants in her turn.

5. In the light of what is stated above, the application is disposed of setting aside A-2 & A-7 and directing the respondents that before filling up the existing vacancy of PO&RMS Accountants, an examination in that regard should be held permitting the applicant also to participate and if the applicant qualifies, she should be considered for appointment in her turn deeming that she qualified in the examination notified by A-1 and till then no appointment pursuant to that examination be made. There is no order as to costs.

Dated 13th November, 2003.


H.P.DAS
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

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