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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 501 of 2009

Monday, this the *16th* day of *May*, 2011

CORAM:

Hon'ble Mr.George Paracken, Judicial Member
Hon'ble Ms.K.Noorjehan, Administrative Member

Mr.M.P Nirmal Kumar
Aged 52 years
S/o Prabhakara Menon, Asst. Superintendent of
Post Offices, Trichur RMS, Trichur 680 021
residing at "Door No.C.I/7,
Postal & BSNL Quarters
Poothole, Trichur – 680 004

..... **Applicant**

(By Advocate – Mr.Shafik M.A)

V e r s u s

1. Union of India represented by
Secretary to the Government of India
Ministry of Communication
Department of Posts
New Delhi- 110 001

2. The Director General of Post,
Department of Posts
New Delhi

3. The Chairman
Postal Board, Department of Posts,
New Delhi

..... **Respondents**

(By Advocate – Ms.Mini R Menon, ACGSC)

This application having been heard on 23.3.2011, the Tribunal
delivered the following on *16.05.2011*.

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ORDER

By Hon'ble Ms.K Noorjehan, Administrative Member

1. The applicant has filed this Original Application seeking the following reliefs:-

(i) To declare that the declaration of results of the Postal Services Group B Examination for the year 1997 was not legal and proper and to Direct the Official respondents to review the results of the Postal Services Group B Examination for the year 1997 in accordance with law and to regulate the appointments to Postal Services Group B against the vacancies of the year 1997 accordingly.

(ii) To direct the official respondents to consider the applicant for appointment to the Postal Services Group B against the vacancies of the year 1997 after regulating the results of the Postal Services Group B Examination for the year 1997 in accordance with law by eliminating the ineligible candidates from the purview of consideration, and to grant him such appointment with all consequential benefits.

2. The applicant, Assistant Superintendent of Post Offices (ASP for short) is an aspirant to the post of Postal Services Group B (PSGB for short). As per the Recruitment Rules, Inspectors of Posts (IP for short) with 5 years of regular service in the grade are eligible to appear for the examination which is conducted every year. As such, the applicant sat for the examination in 1999 which was notified for the vacancies of 1997-98 The result was published only in respect of 7 OC and 2 SC candidates. In the O.C category Shri P.Ramakrishnan appears at serial No.2 and Shri M Mohandas was the last candidate at serial No.7. Strangely, two months thereafter Shri P.L Raghunathan was declared as selected. Shri CR Ramakrishnan who appeared in the above examination challenged the candidature of Shri P Ramakrishnan and submitted a representation to DG (Posts). In the meanwhile, PSGB exam



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for 1998-2000 vacancies was held on 26 and 27 July 2001. Shri C.R Ramakrishnan appeared in the said exam also. The result was announced on 30.09.2002 but the name of Shri C.R Ramakrishnan did not figure in the select list. About 4 months before the announcement of the result of the exam for 1998-2000 vacancies and more than one year after the announcement of the result of the exam for 1997 vacancies, the Directorate ordered the promotion of Shri. C.R Ramakrishnan as per Annexure A-5, on the basis of the result of exam held for 1997 vacancies. With the promotion of the above mentioned official, all the 9 vacancies notified for 1997 were filled up. In 2008 the department was compelled to promote Shri Rahul Joseph whose result was withheld due to prolonged litigation. The applicant avers that he obtained a score of 282/400 marks and he is fully qualified and entitled for appointment in the PSGB cadre. Hence he avers that the action of the respondents in making selection in stages for the above mentioned candidates against vacancies of 1997-98 reeks with malafides as it was not done in accordance with rules governing the Recruitment of PSGB.

3. The respondents rebutted the various claims of the applicant and filed reply statement. The respondents submitted that Sri M.P Nirmal Kumar, the applicant in the OA appeared for the PSGB Examination 1997 held on 22nd and 23rd December 1999 and on 28.11.2000. As seen from the result announced by the office of the 2nd respondent vide Annexure A-3 letter dated 18.04.2001, the examination was held for 9 OC, 2 SC and 1 ST vacancies. The result of the examination was declared for 7 OC and 2 SC vacancies. No ST candidate was successful in the examination. Out of the two OC vacancies withheld, one vacancy was kept pending for want of information about the service particulars of two candidates who got 295 marks each and the other vacancy was kept



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pending due to O.A No.48/2001 filed by Sri Rahul Joseph another candidate of Kerala Circle. On receipt of information from the Staff Branch of Directorate, the result of Sri P.L Raghunathan was issued on 31.05.2001 vide Annexure A-4, as he was senior to Sri C.R Ramakrishnan who got the same marks i.e. 295. Subsequently, a report was received by Postal Directorate from Kerala Circle vide their letter dated 16.01.2002 intimating that the OA No. 48/2000 filed by Sri Rahul Joseph was dismissed vide CAT order dated 21.11.2001. The result in respect of the vacancy that remained unfilled due to pendency of O.A No.48/2000 filed by Shri Rahul Joseph was declared in March 2002 in favour of Sri C.R Ramakrishnan who got the same marks as of the last candidate viz; Sri P.L Reghunathan. After declaration of the result, Shri Rahul Joseph filed OP No.8636/2002-C before the Hon'ble High Court of Kerala and the case was disposed of in favour of the applicant vide judgment dtd 17.01.2003. Department filed SLP No.20016/2003 challenging the judgment of Hon'ble High Court of Kerala. The SLP was dismissed. Therefore, Sri Rahul Joseph was also declared passed considering him against future vacancies in the Group B cadre allowing all consequential benefits as per the direction of Hon'ble Supreme Court. Hence the respondents have followed all the prescribed procedures in this case and no grounds have been made out by the applicant warranting intervention of this Tribunal in this case.

4. Respondents further submitted that there has not been any malpractices in the conduct or declaration of results in the examination as alleged by the applicant. The averment that he has secured more marks than the qualified candidates in the Examination is not true to facts. The applicant has secured only 282 marks while the last selected candidate in merit quota viz; Sri C.R Ramakrishnan had secured 295 marks. The result of the examination was



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declared for 7 OC and 2 SC vacancies. No ST candidate was successful in the examination. One vacancy was kept pending for want of information about the service particulars of two candidates who got 295 marks each and the other vacancy was kept pending due to O.A No.48/2000 filed by Sri Rahul Joseph. On receipt of information from the Staff Branch, the result of Sri.P.L Raghunathan was issued on 31.05.2001 vide Annexure A-4, as he was senior to Sri.C.R Ramakrishnan who got the same marks i.e. 295. Subsequently on dismissal of OA No.48/2000, the result in respect of the vacancy which remained unfilled due to pendency of the OA was declared in March 2002 in favour of Sri.C.R Ramakrishnan who got same marks as the last candidate viz Sri.P.L Reghunathan. However, after declaration of the result, Sri.Rahul Joseph approached the High Court/Supreme Court and got verdicts in his favour. Hence Sri.Rahul Joseph was also declared passed considering him against future vacancies in the Group B cadre allowing all consequential benefits as per the direction of Hon'ble Supreme Court. It is therefore clear that the allegations raised by the applicant are not factually correct and he could not bring any material to show malafides or malpractices on the part of the respondents.

5. Respondents submitted that Shri P Ramakrishnan fulfilled the service eligibility conditions to appear for the examination conducted in 1999 for the vacancies of 1997-98 in accordance with Annexure R-1. As per Annexure R-1, candidates should have completed the required length of service on a date immediately preceding the date of the examination. Shri P Ramakrishnan's date of entry in the cadre of Inspector Posts is 19.03.1993 and hence he is fully qualified to appear for the examination held from 21.12.1999 to 22.12.1999.

6. The undisputed fact which emerges from the rival contentions of the

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applicant and the respondent is that there was unduly long period between the publication of result in April 2001 and appointing in 2008 the last successful candidate who took the PSBG exam in 1999. We need to examine in the light of the facts whether any illegality or malpractices or malafides as alleged by the applicant, have occasioned in the publication of the result. The PSGB exam was notified in 1999 for the vacancies of 1997 and 1998. The break up of vacancy was given as 9 OC, 2 SC and 1 ST for the 19% quota reserved for IP line officials. In the first instance on 18.4.2001, result of 7 OC and 2 SC was announced. Out of the two withheld OC vacancies one was reserved as per the orders of this Tribunal in OA 48/2000 and to fill up the remaining one post the tie between 2 OC candidates who got the same cut off marks as 295 has to be resolved by getting the requisite service particulars from the concerned postal circles. The result of Shri PL Raghunathan who was the senior was released on 31.05.2001 (Annexure A-4). OA 48/2000 was dismissed by this Tribunal on 21.11.2001. Therefore Shri C.R Ramakrishnan who got the same marks as Shri P.L Raghunathan was also released in March 2002. Only after declaration of the results Shri Rahul Joseph filed OP 8636/2002. When Shri Rahul Joseph ultimately won the case in 2008, it was a judicial direction to appoint him against a future vacancy. Since there was no eligible ST, candidate the 12th vacancy remained unfilled. The respondents have not stated anything about filling up the ST vacancy on a later date. In Group B cadre dereservation is permitted even in the first year of its occurrence, provided that reservation point is carried forward to a later year. So as far as the 1999 exam is concerned, only 11 vacancies were filled up and the total intake did not exceed 12 even later. Therefore we find no illegality with respect to the number of vacancies notified and subsequent appointment of the same number of successful candidates against such notified vacancies.

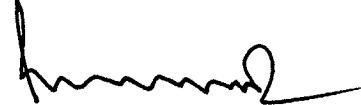
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7. The applicant appeared for PSGB exam in December 1999 and Nov 2000 and he scored less marks than the last selected OC candidate. In 1999 exam the cut off marks for OC was 295 marks against which the applicant got 284 marks. In fact there were 8 candidates above the applicant who scored, marks ranging from 294 to 284. Hence the contention of the applicant that he is a successful candidate with a high score and his name should have found a place in the select list but for the irregularities committed by the respondents is not tenable. In this view of the matter we do not find any illegality or arbitrariness in the matter of selection and appointment of successful candidates of 1999 PSGB exam. The O.A being devoid of merits is dismissed with no order as to costs.

(Dated this the ...16/11..... day of.....May....., 2011)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER


(GEORGE PARACKEN)
JUDICIAL MEMBER

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