

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 77
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1991

DATE OF DECISION 11.2.1992

Shri A. Jagajit and another Applicant (s)

S/Shri V.P. Mohan Kumar and Advocate for the Applicant (s)
G. Sukumara Menon

Versus

Director General, Department Respondent (s)
of Posts, New Delhi and 3 others

S/Shri K.A. Cherian, K.P. Advocate for the Respondent (s)
Dandapani and Smt Sumati Dandapani.

CORAM :

The Hon'ble Mr. S.P. Mukerji - Vice Chairman

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

The applicants who are Extra Departmental Agents of the Postal Department have filed this application under Section 19 of the Administrative Tribunals Act praying for the following reliefs:-

- (i) To declare selection of juniors of the applicants in the category of E.D. Agents as postman as illegal;
- (ii) To direct the 2nd respondent to select the candidates to the category of postman from among the E.D. Agents who are ranked above 90 in Annexure C list;

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- (iii) To declare that the classification of E.D. Agents under length of service quota and merit quota for the purpose of promotion to the category of postman as per Annexure-A order is discriminatory and violative of Article 14 of the Constitution of India;
- (iv) To direct the respondents to distribute the unfilled vacancies in the quota set apart for Departmental candidates for the E.D. Agents as a whole;
- (v) To set aside Annexure-D list;
- (vi) To direct the 2nd respondent to declare the result of the examination held on 21.10.1990 pursuant to Annexures B & C; and
- (vii) To grant such other and further reliefs as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The facts of this case can be briefly stated as follows. The first applicant was appointed as E.D. Mail Carrier on 8.10.1979 and the second applicant was appointed as E.D. Agent on 18.12.1989. As per the scheme for recruitment to the cadre of Postman, 50% of the vacancies is to be filled by promotion from Group 'D' officials of the Postal Department and the remaining 50% is to be filled from among the E.D. Agents. The 50% quota reserved for being filled by E.D. Agents is known as outsider quota. Out of this outsider quota,

50% is to be filled by appointment of E.D. Agents who have put in a minimum three years of service on the basis of their length of service provided that they qualify in the examination. This quota is called seniority quota. The remaining 50% of the outsider quota is to be filled by appointment of E.D. Agents who have put in three years of regular service and are within the age limit on the basis of merit in the examination. This quota is called the merit quota. As per this scheme, the number of E.D. Agents to be permitted to take the examination under the seniority quota would be limited to five times the vacancies announced under this quota. As per notification dated 16.10.1990 (Annexure B), the second respondent notified 37 vacancies of Postman. 19 vacancies were allotted to departmental quota and 18 vacancies were allotted to outsider quota. Out of 19 vacancies under the departmental quota, two were set apart for SC and three for ST and in the outsider quota only one vacancy was reserved for SC and there was no reservation for ST. Though according to the scheme, the number of E.D. Agents to be permitted to take part in the seniority quota should be limited to five times the number of vacancies under that quota, in the examination held as per Annexure B notification, as many as 358 E.D. Agents were allowed to participate. After the examination, the second

respondent issued an office order dated 19.12.1990 publishing the names of 27 candidates in the merit quota and 9 candidates in the length of service quota (Annexure D). The unfilled vacancies in the departmental quota is, as per the scheme, to be added to the merit quota of E.D. Agents. The names of the applicants were not included in the select list. The grievance of the applicants is that by permitting more than 90 candidates to appear in the examination for outsider quota, the respondents have violated the rules regarding selection and have made ineligible persons eligible for participation in the selection test. The classification of E.D. Agents into two separate categories, one on the basis of length of service and the other on the basis of merit, also is, according to the applicants, violation of Article 14 of the Constitution of India. The applicants contended that the inclusion of 15 of their juniors in the select list Annexure D is arbitrary and discriminatory and that for this reason the impugned select list at Annexure D is liable to be quashed.

3. The respondents in their reply statement have sought to justify the permission granted to 358 E.D. Agents to take part in the examination on the ground that as there is no restriction of number of candidates

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in regard to merit quota and as the seniority quota vacancies are to be filled from among the senior E.D.As who qualify in the examination strictly in the order of their seniority there is no possible prejudice or miscarriage of justice to any of the candidates. They have contended that the examination was properly held and as only one departmental candidate was successful in the examination, the remaining vacancies in the departmental quota were allocated to the merit quota in the outsider category as per rules and that as the applicants ranked below 45 in the seniority of E.D.As and as they did not qualify in the examination, they have no legitimate grievance.

4. We have heard the arguments of the learned counsel for the parties and have carefully gone through the pleadings and documents. The contention of the applicants that the classification of E.D.As into two categories, i.e. those who score higher marks in the examination and those who only qualify in the examination is unscientific, arbitrary and illegal, is absolutely untenable. Out of 50% vacancies allotted to be filled by appointment of candidates from among the eligible E.D.As, 25% is for promotion of senior E.D.As who qualify in the examination while the remaining 25% is to be filled by appointment of the E.D. Agents on the basis of marks obtained by them in the competitive examination. The principle of recognising merit is a sound one and classifying

persons on the basis of merits cannot be said to be arbitrary illegal or unjustified. So, there is absolutely no merit in this argument. The learned counsel for the applicants invited our attention to the provisions in the Annexure A instructions of the DG, P & T, wherein it was directed that the number of candidates in respect of seniority quota would be restricted to five times the number of vacancies under that quota and argued that by permitting 358 persons to take part in the examination, the respondents have violated this instruction. At the first blush it may be felt that there is some substance in this argument. But we notice that a common examination was held both for the seniority quota people and the merit quota people. Those who passed in the examination were arranged according to their seniority and persons who can be considered for the seniority quota alone were selected ^{for appointment} to the vacancies earmarked for that quota on the basis of their length of service. Only the vacancies available for merit quota is filled by persons who rank high in the examination. In order to give opportunity to all those who are eligible to participate in the selection, the respondents have allowed as many as 358 persons to take part in the examination. By doing so, the chances of the seniority quota people for appointment in that quota, if they pass in the qualifying examination, have not been diluted. Therefore, on a closer scrutiny,

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it can be clearly seen that no injustice has been done in allowing 358 persons to take part in the examination. Admittedly, the vacancies available to the seniority quota were only 9. So, only serial numbers one to forty-five could have been considered. The applicants were at serial numbers 55 and 60 in Annexure C. So at any rate, they did not come within the zone of consideration for seniority quota. Therefore, they could not have had any legitimate grievance in the matter. All the persons selected for appointment to the seniority quota, other than one SC candidate Shri A.T. Kuttappan, in Annexure D are within serial numbers 1 to 45. So all of them were by their seniority, entitled to be included in the select list if they had qualified in the examination. There is no case for the applicants that those persons did not qualify. Regarding Shri A.T. Kuttappan, number 2 among the SC candidates, his position in Annexure C list is at serial number 58. According to the notification at Annexure B, there was one post reserved for SC and no post for ST in the outsider quota. But it is seen that two SC candidates and one ST candidate had been selected and appointed. But Shri C. Prabhakaran, serial number 1, appointed from SC and Shri Chandukutty from ST are seen even otherwise eligible to be included in the panel on the basis of their length of service. So even though there was one vacancy reserved for SC for filling up that vacancy, it

appears that the zone of consideration has been extended and that was why Shri A.T. Kuttappan, though at serial number 58 in Annexure C, was included in the panel. He is a member of the SC and as he has passed the qualifying examination, his inclusion in the select list cannot be challenged. No other person junior to the applicants has been included in the Annexure D select list. Therefore, we do not find any legitimate grievance to the applicants to be redressed.

5. In the result, finding no merit, the application is dismissed without any order as to costs.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman

11.2.1992

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