

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.81/2008

Monday this the 16th day of June, 2008

C O R A M

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

- 1 N.V. Joseph S/o late Shri N.M. Varkey
working as Accounts Supervisor, RMS
residing at Naduvile Chennam Kutam House
Mutholapuram PO, Elanji, PIN 686 665
- 2 R.Mohana Sarma S/o late P. Raya Kamath
Working as Accounts Supervisor, RMS Ek Division
HRO Ernakulam, residing at Thottungal House
Thirumala Bhagom PO, Thuravur-688 540
- 3 K. Sunanda W/o Radhakrishnan K.
Working as Accountant, RMS, Ek Divisional
Office Kochi-16, residing at
Santhi Nikethan, Chottanikkara PO
- 4 K.N. Sobha W/o Prabhakaran
Working as Accountant, HRO RMS, Ek Division
Kochi-16 residing at Madhumathi Kumbalam
Kochi.
- 5 K.B. Sobha W/o V.K. Valsan
Working as Accountant, Head Record Office
RMS. Ek Division, Kochi-16 residing at
House NO. 35/1195 E, Indira Road,
Palarivattom P.O., Kochi-23
- 6 P. Lathika W/o late K. Jayachandran
Working as Accountant, Head Record Office
RMS, Ek Division, Kochi-16
residing at Flat NO. SF-A,
Royal Castle, Chinmaya Mission road,
Tripunithura-301
- 7 A. Nazeer S/o SH:.M. Abdul Khader
Working as Accountant Supervisor, Head Record Office
Accounts RMS, TV Division Trivandrum
residing at TC 49/348, PRA-175,
Kamaleswaram, Monacaud PO
Trivandrum-9

- 8 V.Chandran S/o V. Sankaran
Working as Accounts Supervisor, LSG(BCR)
HRO, RMS, CT Division, Calicut-32 residing at
Midhila House, Cheruvannur PO
Kolathara, Kozhikode.
- 9 V. V. Gandadharan S/o late V.V. Govindan Nair
working as Accountant (BCR)HRO, RMS CT Division
Calicut-32, residing at Home No. 33/2969,CH Colony
Vellimadukunnu PO, Mary Kunnu
Calicut-673 012
- 10 C.Sreenivasan S/o C. Koran
Working as Accountant, HRO, RMS,
CT Division,Calicut-32,
residing at Chalppurath House,
PO Aszhinhilam, Farook College,
Calicut.
- 11 L. Jayasree D/o MN Jayachandran
working as Accountant, Kayamkulam HO
residing at Harisree, Haripad PO
- 12 K. Chkandra Babu S/o K.N.Kunjan Pillai
Working as Postal Assistant (TBOP), Adur,
Kerala HO, residing at Sarangi, Mettode PO
Adur, Kerala-691523
- 13 Sheela L W/o R. Prapachandran
Working as accountant, O/o SSPOs,
Thiruvananthapuram. North Division, Thiruvananthapuram-1
residing at Nandanam, TC 4/460(3);
Ambalamukku, Koudiar PO
- 14 N. Velayutham S/o Neelakantan Pillai
Working as APM Accounts (Offg.)
Thycaud HPO, residing at Priyargh
Puthenkada, Parasala PO
- 15 C.B. Sivasankar S/o S. Chokalingam Pillai
Working as Accountant, Thycaud HPO
residing at Surya 12 AGRA, Balaranapuram.
- 16 S. Manohara Das S/o Selvamony
Working as Accountant,O/o Supdt. Of POs
Thiruvananthapuram, South Postal Division
Thycaud residing at ZIDN Kuzhithurai west
Kuzhithurai-629 163
- 17 D. John Isaac S/o Devadas
Working as Postal Assistant,Thycaud APO
residing at a11/114-A, Kanaga Bhavan,
Kolluketty
Kuzhithurai-629163

18 R. Venugopal S/o K.R. Radhakrishnan Nair
Working as APM (Accounts) Offtg. Attingal HO
residing at Manjushri Near BHS, Attingal-695 101

19 R. Geethakumari D/o Radhakrishnan
Working as Accountant, Kollam HPO residing at
Sreeganesh, Thembra Vayal, Kavikode
TKM College PIN -691 005

20 P.R. Chandrabhanu S/o late K. Raman
Working as Accountant, Kottarakara HO
residing at Plappil Veedu, Ambalakave PO
Valakom Village, Kottarakara.

21 P.K. Sajila Kumari D/o K.R. Balappan Pillai
Working as Accountant O/o the Sr. Supdt. Of POs
Kollam Division, Kollam, residing at
Visakh East Kallada, PIN -691502

22 Saradambal N. D/o N. Gopalakrishnan Potti
Working as Accountant, Karunagappally HO
residing at Souparnika, Manayil Kulanagara
Thirumuttavanam, Kollam-691 012

23 Remakumari Devi G. D/o KM Govindan Unnithan
Working as Accountant, Mavelikkara HPO
residing at RACHANA Kandiyoor
Thattarambalam PO
Mavelikkara-3

24 Radhamma M.K. D/o R. Narayanan Nair
Working as Accountant, O/o Supdt. Of Position
Mavelikkara Division, Mavelikkara -690 101
residing at Muzhangodil Puthen Veedu,
Kurathikadu Thekkedukkara PO, Mavelikkara -690 107

25 K. Abdul Nazar S/o P.K. Seethi
Working as Accountant (BCR), Calicut HPO
residing at ISLAH, MES Orphanage Road,
PO Farook College, Calicut-673 632. Applicants

By Advocate Mr. K.S. Bahuleyan

Vs.

1 Union of India represented by Secretary to the
Govt. of India, Ministry of Communications
Department of Posts, New Delhi.

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

3 Director of Postal Services (Hqrs)
O/o the Chief Postmaster General
Kerala Circle, Trivandrum

4 The Chief Postmaster General
Kerala Circle, Trivandrum.

5 The Postmaster General, Central Region
Kochi.

6 The Sr. Supdt. Of Railway Mail Services,
TV Division
Thiruvananthapuram. Respondents.

By Advocate Mr. TPM Ibrahim Khan, SCGSC

ORDER

HON'BL DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

There are twenty five applicants in this O.A. They are all working s Accountants and Accounts Supervisors in Post Offices and Railway Mail Service offices in the Kerala Postal Circle. They are said to be similarly situated as applicants in O.A. 140/07. The applicants are aggrieved by the refusal of the respondents to extend them the benefit of the order passed by this Tribunal in O.A. 140/07.

2 According to item No. 15 in schedule to Posts & Telegraphs (Selection Grade posts) Recruitment Rules 1976 promotion to the post of LSG Accountants in post offices are to be made from Clerks in post offices with 10 years regular service in the grade who have passed the Post Offices and Railway Mail Service Accountants Examination. Similarly item 16 of the said schedule pertaining to LSG Accountants in the Railway Mail Service Offices stipulates that Clerks/Sorters in the RMS offices with 10 years regular service in the grade who have passed Post Offices and Railway Mail Services Accountants Examination only are eligible for

promotion to the post of Lower Selection Grade Accountants in Railway Mail Service offices. Subsequently, certain amendments were introduced in the Recruitment Rules in the year 2002. However, in respect of item NO. 15 and 16 there were no changes. The Directorate of Postal Services also issued a clarification on 28.6.2003. In serial 10 of this clarification it was stated that

"APM (Accounts) posts are to be treated as norm based LSG Posts and are to be filled up strictly from among PAs/SAs who have qualified in PO & RMS Accountant Examination."

In spite of the above position, the Chief Postmaster General, Kerala Circle Trivandrum by letter dated 3.2.2006 directed that no more Departmental Promotion Committee is called for at the circle level for filling up of LSG APM (Accounts) and AHRO(Accounts) posts. The vacancies in these posts were sought to be added to the other LSG vacancies. Several employees who were working as Accountants challenged the direction contained in the CPMG Kerala Circle letter dated 3.2.2006 in O.A. 140/2007. While allowing the O.A. the Tribunal had observed as follows:


"We are in respectful agreement with the same. Annexure A-7 is accordingly quashed. The applicants are eligible to be considered for promotion to norm based LSG Accounts vacancies based on Annexure A-2 Recruitment Rules of 1976. The respondents are directed to convene the Departmental Promotion Committee for consideration of the eligible applicants to the LSG Accountant posts and issue necessary promotion order if they are otherwise eligible as per rules within a period of four weeks from the date of receipt of the order."

As per the communication from the office of the CPMG, Kerala Circle dated 18.1.08, respondents have decided to accept the judgment of the Tribunal in O.A. 140/07. However, they have not agreed to include the

names of the applicants of this O.A in the zone of consideration, although they are also said to be similarly placed as the applicants in O.A. 140/07.

3 The respondents have contested the OA and filed a reply. It is contended on behalf of the respondents that the Recruitment Rules of 1976 have become inoperative since the PO & RMS Accountants cadre has already been declared as a defunct cadre. The PO & RMS Accountants are born on the gradation list of the PA/SA cadre of the concerned division and there is no change in their seniority in PA/SA by virtue of their passing Accounts Examination. The applicants will be considered for promotion as per their seniority in the common gradation list. Having brought the PAs/SAs who have passed the Accountants examination in the common gradation list their promotional avenues have only been increased since Accounts line officials are also eligible for further promotion to the higher cadres of LSG/HSG-II and HSG-I. This could not have been possible as per the 1976 Recruitment Rules. In fact three of the applicants in both O.A. 140/07 and the present OA have since been able to get promotion to the LSG in accordance with the amended Recruitment Rules. Adhering to the 1976 Recruitment Rules will lead to a situation where the LSG Accountants in Post Offices would stagnate at the next grade namely HSG (Accounts) in the hierarchy and this would affect their career prospects for promotion to HSG-I. The order passed by this Tribunal in O.A. 140/07 cannot be made applicable to the applicants in the present O.A. As per the instructions of the DOPT there is limitation about the number of candidates to be included in the zone of consideration. The OA is therefore liable to be dismissed.

4 We have heard the learned counsel for the applicant Shri K.S.Bahuleyan and the learned counsel for respondents Shri T.P.M. Ibrahim Khan, SCGSC. We have also perused the documents carefully.

5 The issue for consideration in this O.A. is whether the applicants in this OA. are entitled to the same reliefs as extended to the applicants in O.A. 140/07. It has not been denied by the respondents that the applicants are similarly placed as the applicants in O.A. 140/07. The applicants in the present O.A. are working as Accountants and have passed the examination prescribed by the Recruitment Rules of 1976. In fact some of them are said to be senior to the applicants in O.A. 140/07. The reason advocated by the respondents for non consideration of the applicants along with the applicants in O.A. 140/07 cannot be sustained. The applicants are only praying for their entitlement for promotion on the basis of Recruitment Rules 1976 which has not been repealed and in accordance with the inter-se seniority among those who have passed the required examination. The argument of the respondents that the number of candidates who can be included in the zone of consideration is limited is not a valid argument because the applicants are praying for the relief only if they are coming within the zone of consideration in accordance with their eligibility. We are of the considered view that the applicants are similarly placed as the applicants in O.A. 140/07 and therefore they are also entitled to be considered for promotion to the next post of LSG Accountant vacancies based on the Recruitment Rules of 1976.

6 For the reasons stated above the OA is allowed. It is declared that the applicants in this OA are entitled to be considered by the DPC for promotion to the norm based LSG Accountant vacancies on the basis of

the Recruitment Rules of 1976 if they are otherwise eligible, along with applicants of OA 140/07 in accordance with their inter-se seniority among the employees who have passed the relevant examination prescribed in the said recruitment rules. The respondents are directed to convene the DPC with a period of two months from the date of receipt of a copy of this order. No order as to costs.

Dated 16th June, 2008



K.S. SUGATHAN
ADMINISTRATIVE MEMBER

kmn



K.B.S. RAJAN
JUDICIAL MEMBER