

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 152/2009

Tuesday this the 2nd day of June 2009.

C O R A M

**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

- 1 O.J. Joy S/o C.P. Joseph
GDS BPM Chennaippara, Trichlur District
residing at Chamakalayil House
Chennaippara PO, Peachy,
Trichur District Pin -680 653
- 2 K. Krishnankutty S/o I. Unnikrishnan
GDS MP, Trichur Central PO
Trichur
residing at Babu Nivas , Nettiserry PO
Trichur -680 657
- 3 J. Antony S/o G.C. Joseph,
GDSBPM, Chottupara PO
Trichur
residing at Ganapathy Plackel Housed
PO Chottupara Via M.G. Kavu
Trichur-680 581
- 4 P.M. Mohanan S/o P.K.Maman
GDSMD, Pullazhy
Residing at Permarath House
Elthuruthu PO
Trichur -680 012
- 5 K.K. Radhakrishnan S/o Kombath Krishnan Kutty Nair
GDSMD, Koorkancherry
residing at Gandhi Nagar
Panamuttam PO Nedupuzha,
Trichur-15
- 6 P. Ramakrishnan S/o Raman Nair
GDSMD, Nedupuzha PO
Trichur
residing at Kuruppath House PO Koorkanchery,
Trichur -680 007

Applicants

By M/s Shafik M.A., K.M. Anthru, R. Sreeraj, Shihabudin M.A., Shemeena
Salahudheen, Safiya Shafik & P.C. Kunjappan.

Vs

- 1 Union of India represented by
the Chief Postmaster General
Kerala Circle, Trivandrum
- 2 The Superintendent of Post Offices
Trichur Division,
Trichur.
- 3 The Superintendent of Post Offices
Postal Stores Depot
Trichur

By Advocate Mr. Sunil Jose, ACGSC.

The Application having been heard on 2.6.2009 the Tribunal on the same day delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants are Gramin Dak Sevaks working in the Department since 1980-83. The next promotion they can aspire for is to the Group-D posts. As per the Recruitment Rules, 75% of the vacancies are earmarked for GDS on seniority-cum- fitness basis. According to the applicants there is delay in filling up the vacancies of Group-D in the Trichur Division on the ground that the Screening Committee has not cleared the vacancies. The requirement of clearance of vacancies by the Screening Committee has been subject matter of a number of OAs before this Tribunal and the Tribunal held that appointment of GDS to Group-D are by promotion and the clearance of the Screening Committee is not necessary. The order of the Tribunal has been upheld by the High Court of Kerala also. The grievance of the applicants is that in spite of this, the respondents are not filling up the vacancies of Group-D. Hence they filed



this O.A. to direct the respondents to fill up the existing vacancies of Group-D from the date of occurrence of the vacancies.

2 The respondents opposed the O.A by filing reply statement. They stated that the Government is not duty bound to fill up every vacancy because needs at the work place change according to changing times and they have the power to right size the establishment to their needs. They relied on Annexure A-4 and contended that only the posts which are approved by the screening committee can be considered as fillable vacant posts and as far as Trichur Division is concerned, there are no approved vacant posts which remains unfilled.

3 Heard the learned counsel appearing for the parties.

4 Today when the O.A. was taken up for hearing, counsel on both sides agreed that this case is covered by the order of this Tribunal in O.A. 312/2008 and connected matters. In O.A. 312/08 and connected cases, this Tribunal has elaborately considered the issue and held as follows:

"62. In view of the above, all the O.As are allowed in the following terms. It is declared that there is absolutely no need to seek the clearance of the Screening Committee to fill up the vacant posts in various Divisions which are to be filled up from out of G.D.S. and Casual Labourers as per the provisions of the Recruitment Rules, 2002. Respondents are directed to take suitable action in this regard, so that all the posts, majority of which appear to be already manned by the G.D.S. themselves working as 'mazdoors'/at extra cost, are duly filled. In a few cases (e.g. OA 118/2008), the claim of the applicants is that they should be considered against the vacancies which arose at that time when they were within fifty years of age. In such cases, if the applicants and similarly situated persons were within the age limit as on the date of availability of vacancies, notwithstanding the fact that they may by now be over aged, their cases should also, if otherwise found fit, be considered subject, of course, to their being sufficiently senior for absorption in Group D post. If on the basis of their seniority, their names could not be considered due to limited number of vacancies and seniors alone could considered for appointment against available vacancies, the respective individuals who could not be considered be informed accordingly. Time calendared for compliance of this order is nine months from the date of communication of this order."



Accordingly, we follow the order of the Tribunal in O.A. 312/08 and connected cases, allow the O.A. and direct the respondents to fill up the vacancies of Group-D, evidenced by Annexure A-3 and 3 vacancies under the 3rd respondent, against 75% quota earmarked for GDS on promotion on the basis of seniority-cum-fitness from among GDS. This shall be done within six months from the date of receipt of a copy of this order.

Dated 2.6.2009.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

kmn

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

C.P.(C)Nos.95/09 in O.A 352/08, CP(C) 118/09 in O.A 598/08,
CP(C) 109/10 in O.A 560/08, CP(C) 99/09 in O.A 412/08, CP(C) 103/09 in O.A
541/08, CP(C) 107/09 in O.A 372/08, CP(C) 37/11 in O.A 368/08,
CP(C) 82/10 in O.A 408/08, CP(C) 91/2009 in O.A.421/2008, CP(C) 97/09 in
O.A 406/08, CP(C) 47/09 in O.A 316/08, CP(C) 8/2010 in O.A 455/08, CP(C)
117/09 in O.A 424/08, CP(C) 92/09 in O.A 312/08, CP(C) 120/2009 in
O.A.583/2008, CP(C) 121/09 in O.A 399/08, CP(C) 90/09 in O.A 314/08, CP(C)
78/10 in O.A 410/08, CP(C) 119/09 in O.A 263/08, CP(C) 23/10 in O.A 162/09
and M.A.781/2010 in O.A.698/2008

Friday, this the 29th day of July, 2011

CORAM:

**Hon'ble Dr.K.B.S Rajan, Judicial Member
Hon'ble Ms.K Noorjehan, Administrative Member**

1. CP(C) 95/09 in O.A 352/08
1. D Mohan Das, S/o P David, aged 45 years
Gramin Dak Sevak, Mail Man,
HRO RMS, "TV" Division, and
Thiruvananthapuram -1
2. C Murugan, S/o N Choodamani, aged 43 years
Gramin Dak Sevak, Mail Man,
HRO RMS, "TV" Division,
Thiruvananthapuram -1
24/721, Mettukada, Thycaud P.O, Trivandrum
3. Alexander, S/o George, aged 51 years, Gramin Dak Sevaks
Mail Man, SRO, Kayamkulam, Mammotil Neriam Pattil,
Kattachira, Pallickal P.O, Kayamkulam
4. Gopala Krishnan V, S/o N Venkatachalam
aged 42 years, Gramin Dak Sevaks, Mail Man, HRO
RMS "TV" Division, Thiruvananthapuram-1,
Tc.23/18013, Vaxhavila Veedu
Valiyasala, Trivandrum - 38
5. H Asok Kumar, S/o Haridasan Nair,
aged 41 years, Gramin Dak Sevaks, Mail Man
HRO, RMS TV Division, Thiruvananthapuram -1
Tc.48/193, (PRA 32) Amaruvela Veedu,
Ambalathara, Poonthara P.O, Trivandrum
6. A Rema Devi, D/o Ramakrishna Pillai,
aged 48 years, Gramin Dak Sevaks, Mail
Man, HRO RMS TV Division, Thiruvananthapuram -1
Saraya Nivas, Valiyasala, Chala P.O,
Thiruvananthapuram

7. K.P Siva Prasad, S/o K.P Parameswaran Nair,
aged 44 years, Gramin Dak Sevaks, Mail Man
SRO, Kottayam, Kannattamadathil,
Kanjiram P.O, Kottayam
8. A Salim Kumar, S/o Abdulla, aged 49 years
Gramin Dak Sevaks, Mail man, HRO,
RMS TV Division, Thiruvananthapuram -1
Manu Bhavan, Valiyavila Veedu,
G.R Road, Oorattukala, Neyyattinkara
09. A Anil Kumar, S/o K Appukuttan nair
aged 40 years, Gramin Dak Sevaks,
Mail Man, HRO, RMS TV Division,
Thiruvananthapuram -1
a. Rhouse, Palottu Vila,
Malayinkil P.O, Trivandrum.
10. K Sree Kantan,
S/o M.Krishnan, aged 35 years,
Gramin Dak Sevaks, Mail Man
HRO, RMS TV Division
Thiruvananthapuram - 1
Krishna Bhavan
Vatlavila, Tirumala P.O, Trivandrum
11. P.K Anil Kumar, S/o Kuttan Pillai
aged 45 years, Gramin Dak Sevaks,
Mail Man, HRO, RMS TV Division
Thiruvananthapuram -1
Siva Vilasam, Venmannar ,
Ezhukone

Petitioners

(By Advocate – Mr.M.R Hariraj)

Versus

1. Sri.K.P.K Unnithan
The Senior Superintendent of Railway Mail Service,
T.V Division, Trivandrum
2. Smt.Sobha Koshy,
The Chief Post Master General,
Kerala Circle,
Trivandrum – 33
3. Smt.Rathika Doraisamy
Secretary to Government of India,
Ministry of Communication, New Delhi

(By Advocate – Mr.Sunil Jacob Jose, SCGSC)

2. CP(C) 118/09 in O.A 598/08

1. M. Ashokan, S/o. K. Narayanan,

GDS MD/MC, Mayipad Post,
Kasargod District.

2. K.M. Jose, S/o. M.M. Mathew,
GDS MC, Paramba, Kasargod District.

... Petitioners

(By Advocate Mr. P.K. Ravi Shanker)

VS.

Smt Sobha Koshy
Chief Postmaster General,
Office of the CPMG, Kerala Circle,
Thiruvananthapuram : 695 033

... Respondent

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

3. CP(C) 109/10 in O.A 560/08

1. Radhika K., W/o. Ramachandran,
GDSMD, Madavana
Irinjalakuda Division
Residing at Koonezhath House,
Methala P.O., Kodungallur, Pin-680 669.
2. T.G. Radhakrishnan, S/o. Gortian,
GDSMC/LB Peon, Residing at Thekkedath House,
Annamanada P.O., Trissur.
3. C.M. Subramanian, S/o. Madhavan C.K.,
Perinjanam, Residing at Chennara House,
Padiyoor P.O., Pin-680 695, Trissur.

..... Petitioners

(By Advocate Mr. M.R. Hariraj)

Vs.

1. Radhika Doraiswamy,
Secretary, Department of Posts,
New Delhi.
2. Smt. Sobha Koshy,
The Chief Post Master General,
Kerala Circle, Thiruvananthapuram.
3. Sri. K.P. Sureshkumar
Superintendent of Post Offices
Irinjalakuda

... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

4. CP(C) 99/09 in O.A 412/08

1. P.C. Anilkumar, S/o. K.P. Chandrasekharan Nair,
Gramin Dak Sevak Mail Man, SRO, RMS TV Division,

Kottayam, Residing at Kizhakeppazhoor, N.S.H. Mount
P.O., Kottayam : 686 006

2. S. Sarin, S/o. P.N. Sabu, Gramin Dak Sevak Mail Man,
SRO, RMS, TV Division, Kottayam, Residing at
Kattamparambil House, Velloor P.O.,
Pampady : 686 575 ... Petitioners

(By Advocate Mr. M.R. Hariraj)

VS.

1. Shri K.P.K Unnithan,
Senior Supdt. of Railway Mail Service,
TV Division, Trivandrum - 1
2. Smt.Sobha Koshy, The Chief Post Master General,
Kerala Circle, Trivandrum
3. Smt.Rathika Doraiswamy, Secretary to Government of India,
Ministry of Communications,
New Delhi. ... Respondents.

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

5. CP(C) 103/09 in O.A 541/08

T. Sreenivasan,
S/o. Sri. K. Chandran Nair,
Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division, HRO Calicut,
Presently officiating as Group D, RMS, 'CT', Division,
Residing at 'Sreepadmam', Thatteril House,
Pantheerankavu Post, Calicut-19 : Petitioner

(By Sri.O.V.Radhakrishnan, Senior Advocate with Ms.Rekha Vasudevan)

VS.

1. K Balan, aged 54 years
Superintendent,
RMS, 'CT' Division, Kozhikode.
2. Hilda Abraham
Postmaster General, Northern Region,
Calicut Respondents

(By Advocate Sri.Sunil Jacob Jose, SCGSC)

6. CP(C) 107/09 in O.A 372/08

1. G. Sajikumar,
GDS MP, Peroorkada P.O.,
Thiruvananthapuram.
2. K. Anil Kumar,
GDS MP, Kanjirampara,
Thiruvananthapuram .
3. B. Mohana Chandran,
GDS BPM, Vedicachu Kovil,
Balaramapuram.
4. M. Gopakumaran Nair,
GDS MP, Poojappura Junction P.O.,
Thiruvananthapuram.
5. T. Surendran, GDS MD, Chaikottukonam P.O.,
Amaravila, Thiruvananthapuram.
6. D. Sankaran Kutty,
GDS MP, Sasthamangalam P.O.,
Thiruvananthapuram.
7. K. Manikantan Nair,
GDSMD, Veliyannoor P.O.,
Vellanad, Thiruvananthapuram.
8. All India Postal Extra Departmental Employees Union,
Kerala Circle, Represented by its Circle Secretary,
D. Sankaran Kutty,
GDS MP, Sasthamangalam P.O.,
P&T House, Thiruvananthapuram - 1 ... Petitioners

(By Advocate Vishnu S. Chempazhanthiyil)

Vs.

Smt.Sobha Kozhy
Chief Post Master General,
O/o the C.P.M.G., Kerala Circle,
Thiruvananthapuram - 695 033. ... Respondent

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

7. CP(C) 37/11 in O.A 368/08

1. M.K.Abdul Asees, S/o. Kunhali,
GDS MD, Palemad BO, Edakkara, Manjeri Division,
Malappuram, Residing at "Mundenpilakkal",
Palemad B.O., Edakkara, Malappuram : 679 331
2. Ummer Poonthala, S/o. Mohammed,
GDS MD, Chemrakkatur BO, Areakode, Manjeri Division,

Malappuram District, Residing at 'Mnuhakottil House',
 P.O. Chemrakattur, Areacode, Malappuram ... Petitioners.
 (By Advocate – Mr.M.A Shafik)

V.

1. Mrs.Sobha Kozhy
 The Chief Postmaster General,
 Department of Posts
 Kerala Circle, Trivandrum
2. Mr.M.P Nirmal Kumar
 The Senior Superintendent of Post Offices
 Manjeri Division, Manjeri, Malappuram ... Respondents.

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

8. CP(C) 82/10 in O.A 408/08

1. J. Samuel Kutty, S/o. Late, p. John,
 Gramin Dak Sevaks, Mail Deliverer,
 Mannady, Pathanamthitta Division,
 Pathanamthitta, Residing at Thachakottukizhakethil,
 Mannady, Adoor, Pathanamthitta, Pin-691530.
2. P. Karthikeyan Pillai, S/o. M. Purushothaman Pillai,
 Gramin Dak Sevaks, Mail Carrier, Cherukulam,
 Pathanamthitta Division, Pathanamthitta,
 Residing at Abhilash Bhavan, Anchal,
 Pathanapuram : Pin-691306. ... Petitioners

(By Advocate Mr. M.R. Hariraj)

V.

1. Radhika Doraiswamy
 Secretary, Ministry of Posts, New Delhi – 110 001.
2. Smt.Sobha Koshy, the Chief Poster General
 Kerala Circle, Trivandrum -33
3. Sri. B Mohanan,
 Superintendent of Post Offices,
 Pathanamthitta P.O
 Pin – 689 645

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

9. CP(G) 97/09 in O.A 406/08

1. P.P. Radhakrishnan, S/o. Prahakaran Pillai, Gramin Dak Seval Mail Packer, Kalamassery Post Office, Ernakulam Division, Ernakulam : 683 104, Residing at Plithalath Marayil House, Ferry Road, Kalamasery. - 683 104 C.
2. Sheela M. Joseph, Gramin Dak Sevak Stamp Vendor, Vyttila Post Office, Ernakulam Division, Ernakulam : 682 506
3. George K Varghese, S/o. K.V. Varkey, Gramin Dak Sevak Mail Packer, Matsyapuri P.O., Ernakulam Division, Kochi – 682 029, Residing at Kunamkuzhakkal House, Pannttuparambil, Irimpanam, Ernakulam : 682 309
4. Indira.K.R, W/o. B. Muraleedharan, Gramin Dak Sevak Branch Post Master, Vadacode.P.O., Ernakulam Division, Thrikkakara : 682 021, Residing at Kallingal House, Kalamassery P.O., Ernakulam : 683 104.
5. Lissy .P.P , W/o. Thomas P.V, Gramin Dak Sevak Branch Post Master, Vadayampady.B.O., Ernakulam Division, Puthencruz : 682 305 residing at Parayil House, Thiruvankulam, Ernakulam – 682 305
6. K.K. Giri Kumar, S/o. Kuppuswamy, Gramin Dak Sevak Mail Deliverer, Kothad, Ernakulam Division, Chittoor, Kochi – 682 027, Residing at Laxmi Nivas, Hanuman Kovil Road, Kochi – 27
7. Lakshmi Devi. P, W/o. K.C. Raveendran, Gramin Dak Sevak Branch Post Master, Eroor South P.O., Ernakulam Division, Eroor : 682 306, Residing at Pulickal House, Eroor South P.O., Eroor : 682 006
8. Elizabeth Koshy, W/o. P.V. Eldhose, Gramin Dak Sevak Branch Post Master, Rajagiri Post Office, Ernakulam Division, Kalamassery – 683 104, Residing at Venmony Villa,, K.D.P.P.O (KD Plot), Kalamassery – 683 109
9. P. Jalaja, W/o. O. Chandrasekharan, Gramin Dak Sevak Branch Post Master, Edappally North, Ernakulam Division, Edappally North : 682 034. residing at

Onampozhil Sreedhanya, Cheranelloor, Cochin – 682 034

10. Sasi K.N, S/o. Narayanan, Gramin Dak Sevak Mail Deliverer, Nadakavu BO, Udayamperoor Post Office, Ernakulam Division, Ernakulam : 682 307, Residing at Kizhakkeveliyil House, Udayamperoor, Ernakulam : 682 307
11. Thomas.E.V , S/o. Varghese E.A, Gramin Sevak Branch Post Master, Pizhala Branch Office, Ernakulam Division, Chittoor – 682 027, Residing at Edathil House, Pizhala P.O., Chittoor, Ernakulam : 682 027.
12. R.S. Valsa, W/o. P.N. Sidharthan, Gramin Dak Sevak SPM, Azhikkal, Ernakulam Division, Vypin : 682 510 , Residing at Paruthezeth House, Ernakulam : 682 508
13. Rajendran.V, S/o. S. Vankadachilam, Gramin Dak Sevak Mail Deliverer, Rajagiri Post Office. Ernakulam Division, Kalamassery : 683 104, Residing at Sopanam, Rajagiri P.O., Kalamassery : 683 104
14. Chandran.K.K, S/o. Krishnan, Gramin Dak Sevak Mail Deliverer II, Kanjiramattom.P.O., Ernakulam Division, Ernakulam District : 682 315, Residing at Kallamparambil House, Kanjiramattom P.O. : 682 315
15. Thilakan.K.S, S/o. Sekharan (late), Gramin Dak Sevak Branch Postmaster, Nedumgad.B.O., Ernakulam Division, Ernakulam : 682 502.
16. Saseendran.K.K, S/o. Raman Kunju Kutty, Gramin Dak Sevak Mail Deliverer, Kaninadu.P.O., Ernakulam Division, Vadavucode P.O. :682 310, Residing at Kandothumoolayil, Keninad P.O., Valavucode, Ernakulam : 682 010
17. Syed Sulaiman.K.S, S/o. Syed Ismail, Gramin Daak Sevak Mail Deliverer, Kumbalangi South P.O., Ernakulam Division 682 007 residing at Orma House, Choolakka Parambil, Kacheripady, Kochi – 682 006
18. K.A. Jossy, S/o. K.F. Anthappan, Gramin Dak Sevak Branch Post Master, Chellanam P.O., Kannamally, Ernakulam Division, Cochin – 682 008, Residing at Kurisinkal House, Kandakkadavu, Andikkadavu P.O.,

Kannamally, Cochin – 682 008

19. Muruges Babu.V.K, S/o. V.A. Kunjan, Gramin Dak Sevak Kannamaly, Emakulam Division, Cochin : 682 008, Residing at Vazhakuttathil House, Kannamaly P.O., Cochin : 682 008.
20. Daisy K.A, W/o. Sebastian K.A., Gramin Dak Sevak Branch Post Master, Puthuvype, Ochanthuruth, Emakulam Division, Cochin – 682 508, Residing at Kappithamparambil, Puthuvype P.O., Kochi. ... Petitioners

(By Advocate Mr.P.A Kumaran)

VS.

1. Sri.Jacob Mamman
The Senior Superintendent of Post Officer
Emakulam Division, Emakulam – 682 011
2. Smt.Sobha Koshy
The Chief Post Master General,
Kerala Circle, Thiruvananthapuram-33
3. Smt.Rathika Doraisamy
Secretary to Government of India,
Ministry of Communication, New Delhi ... Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

10. CP(C) 47/09 in O.A 316/08

K.P Ashokkumar
aged 43 years, S/o Parameswaran Nair,
Group D (Temporary Status)
Aluva Head Post Office, Aluva
Residing at 'Kovatu House'
Thuruthu, Aluva Respondents

(By advocate Mr.M.A Shafik)

V

1. Mrs.Sobha Koshi
Chief Post Master General
Kerala Circle, Trivandrum

2. Mr.P.M Vasudevan
Superintendent of Post Offices
Aluva Division, Aluva

(By advocate – Mr.Sunil Jacob Jose, SCGSC)

11. CP(C) 8/2010 in O.A 455/08

K Karuppaswamy
S/o Kasu, Gramin Dak Sevak Mail Deliverer
Nenmeni P.O, Kollengode
Palghat District
Residing at: "Kowsthubam,
Konghanchathy, Nenmeni P.O,
Kollengode, Palghat Dt. Petitioners

(By advocate – Mr.T.C.G Swamy)

Vs

1. Shri Jayadevan,
Senior Superintendent of Post Offices
Palghat Postal Division
Palghat.
2. Smt.Hilda Abraham
Postmaster General
Central Region, Kozhikode Respondents

(By advocate – Mr.Sunil Jacob Jose, SCGSC)

12. CP(C) 117/09 in O.A 424/08

1. K Sasidharan, S/o the late T.Govindan Nair
working as Gramin Dak Sevak Mail Man, Shornur
Presently officiating as Gp D, RMS, CT Division
Shornur, residing at Mattumbil House
P.O Koonathera, Kavalappara, Shornur
2. K. Mohanan, S/o.the late Narayanan
aged 57 years, working as Gramin Dak Sevak Mail Man
Sub Record Office, RMS, 'CT' Division
Shornur, presently officiating as Gp D, Shornur,

residing at Kunnanchath House, Chuduvathoor
Shornur -1

3. Sasirajan K., S/o the late Kelappan
aged 52 years, working as Gramin Dak Sevak Mail Man
Sub Record Office, RMS, 'CT' Division
Shornur, residing at Kalathinkal House
Mundamuka, Ganesh Giri, Shornur - 3 Petitioners
(By advocate - Mr.O.V Radhakrishnan.Sr. with Ms.Rekha Vasudevan)

Vs

1. K Balan, aged 54 years
S/o Sri Ravan
Superintendent
RMS, CT Division, Kozhikode
2. Hilda Abraham
aged about 46 years
Father's name not known to the petitioners
Postmaster General
Northern Region, Calicut
3. Sobha Koshy
aged 56 years
W/o Sri Asok Koshy
Chief Postmaster General, Kerala Circle
Thiruvananthapuram Respondents
(By advocate - Mr.Sunil Jacob Jose, SCGSC)

13. CP(C) 92/09 in O.A 312/08

1. M. Raveendran, S/o. Sri. M. Kuttan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Tirur 676 101, Residing at Moothedath House,
PO Meenadathur, (Via) Thanaloor,
Malappuram - 676 307.
2. A. M. Habeebullah, S/o. late M.A. Rahiman,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Palakkad, residing at Parisha Manzhi,
2/8, Pumb Engine Road, Olavakkot.

3. M. Manikandan, S/o. late P. Sivasankaran Nair,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Palakkad, Residing at Moorkath House,
Pre-Cot New Colony, Chedayankalai,
Kanjukode West - 678 623.
4. A Zakheer Hussain, S/o. late M.A Rahim,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Palakkad, Residing at 3/78, Mullath House,
Kunnumpuram, Kalpathy, Palakkad.
5. C.K. Rajith Babu, S/o. late K. Balakrishnan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Kannur, Residing at 'Balakrishnan', PO Kuzhunna,
Kannur 670 007.
6. V.K. Raveendran, S/o. late V.K. Krishnan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Tirur, Residing at Velankandiparambil House,
(PO) B.P. Angady, Tirur, Malappuram - 676 102
7. K. Haridasan, S/o. late Baskaran Nair,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Tirur, Residing at Kundulli House, Ayankalam PO,
Thavanoor, Malappuram- 679 594.
8. K. Chandran, S/o. late Khasi,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Shornur, Residing at Nambamthodi,
Muthaliyar Street, Shornur.
9. V.K. Lakshmanan S/o. late K. Kothelan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Olavakkot, Palakkad-2, Residing at Varkkad House,
Muttikulangara PO, Palakkad - 678 594.
10. P. Sivasankaran, S/o. late U. Pazhaniappan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Palakkad, Residing at UDC II Quarters,
Near Police Station, Malampuzha.
11. K. Premarajan, S/o. Sri. K.K. Kumaran,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Vadakara, Residing at 'Thanal', Poothur PO,
Vadakara -673 104.
12. C.P. Asokan, S/o. late C.P. Kannan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,

Vadakara, Residing at 'Swathinilayam',
PO Keezhal, Vadakara.

13. K. Vasudevan, S/o. Smt. K. Narayaniamma,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Shornur, residing at Kadambath House,
Kavalappara, Shornur.
14. R. Rajashekharan, S/o. Sri. R. Raman Muthali,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Shornur, Residing at Mampattukundu,
PO Shornur, Pin 679 121.
15. C.P. Abdul Majeed, S/o. Sri. C.P. Moidu,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Tirur, Residing at Cheriyepeediakkal House,
PO Thekkummuri, Tirur -5.
16. N. Balachandran Nambiar, S/o. late K. Kunhikannan Nair,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Kasaragode, Residing at P&T Home,
Pulikunnu, Kasaragode - 671 121.
17. Narayanan T.V. , S/o. late N. Padmanabhan,
Working as Gramin Dak Sevak Mail Man,
Sub Record Office, RMS, 'CT' Division,
Kasaragode, Residing at Thuluva Veedu,
Cheruvichery, Mathamangalam PO,
Kannur - 670 306.
18. T.K. Balasubramanyan, S/o. the late Choyikutty T.K.,
aged 46 years, Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS, 'CT' Division,
Kozhikode, Residing at Ponnamparambath House,
PO Karaparamba, Pin 673 010.
19. V. Mohandas, S/o. late V. Chandramenon,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS, 'CT' Division,
Kozhikode, Residing at Gokkattilparamba,
Katcherikunnu, Pokkunnu PO, Kozhikode - 673 013.
20. T.K. Venugopalan, S/o. late T.K. Gopalakrishnan,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS, 'CT' Division,
Kozhikode, Residing at Poonadathparamba,
Near Rarichan Road, PO Eranjipalam,
Kozhikode - 673 006.

: Petitioners

(By Sri.O.V.Radhakrishnan, Senior Advocate with Ms.Rekha Vasudevan)

1. K Balan, aged 54 years
S/o Sri Ravan
Superintendent
RMS, CT Division, Kozhikode
 2. Hilda Abraham
aged about 46 years
Father's name not known to the petitioners
Postmaster General
Northern Region, Calicut
- Respondents
- (By advocate – Mr.Sunil Jacob Jose, SCGSC)

14. CP(C) 121/09 in O.A 399/08

1. A.V.Premarajan, S/o. Late A.V. Koran,
GDS MD II Aroli, Kannur : 670 566
2. K.K.Jayan, S/o. Late K.C. Kunhiraman,
GDS MC, Poduvancherry, Padachira : 670 621
3. Raveendran, S/o. K. Kumaran,
GDS MP, Talap, Kannur : 670 002
4. P.A. Gopalakrishnan, S/o. P.K. Ayyappan,
GDS MP, Vellad PO, Via Alakode : 670 571
5. K. Suresh Babu, S/o. K. Kumaran,
GDS MD II, Iriveri, Kannur : 670 614
6. K. Mukundan, S/o. Late Achutha Warriar,
GDS MD I, Ariyil PO, Pattuvam : 670 143
7. K.G. Radhakrishnan, S/o. Late Gopalan Nair,
GDS MD I, Manakadavu, Alakode : 670 571
8. S.T.Govindan, S/o. Late K.P. Narayanan Nambiar,
GDS MD II, Naduvil : 670 582
9. K.T.N. Balakrishnan, S/o. V. Krishnan Nair,
GDS MC, Thattummal, Cherupuzha : 670 511
10. M.P. Visanathan, S/o. Late M.K. Parameswaran Nair,
GDS MP, Chemperi : 670 632
11. P.V. Janardhanan, S/o. Late Kannan Komaram.,
GDS MD II, Karivellur : 670 521
12. E. Prasanth, S/o. M. Krishnan,
GDS MP, Kannur Civil Station, Kannur : 670 002
13. P.V. Sathyavathi, D/o. P.V. Kunhiraman,
GDS BPM, Nanicherry PO,

Parassinikadavu: 670 563

14. Parukutty.P.V , D/o. Appa K.V,
GDS MP, Pattuvam : 670 143
15. M. Vijaya Raghavan, S/o. Raghavan M,
GDS MD, Kuttikol, Taliparamba : 670 141 ... Petitioners.

V.

Smt. Sobha Koshy

Chief Post Master General
Office of the CPMG, Kerala Circle,

Thiruvananthapuram - 33

... Respondents.

(By Advocate Mr. P.K Ravi Sankar, ACGSC)

15. CP(C) 90/09 in O.A 314/08

1. K.A Aniachan, S/o. Sri. K.V. Antony,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16,
Residing at Kodavasserry House,
Haritha Nagar IInd,
Kochi University PO, Kochi-682 022.
2. P.S. Shahid, S/o. late S. Shahid Hussain,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Vadakkath House,
Koovappadam, Kochi -682 002.
3. K.K. Shaji, S/o. late Kochappan,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Kolothar House,
Nayarambalam PO, Kochi-682 509.
4. V.A Anandakumar, S/o. late Achuthan Nair V.,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Madathiparambil House,
Eroor PO, Thrippunithura.
5. M. Sreekumar, S/o. late D. Muraleedharan Nair,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Kanjili House,
Near NSS Karayogam, Nayathode P.O,
Angamali.
6. N. Radhakrishnan, S/o. late E.S Narayanan,
Working as Gramin Dak Sevak Mail Man,

Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at 'Athira' Nivas,
Thiruvankulam, Ernakulam District.

7. V.M. Ramani, S/o. Sri. V. Madhavan Pillai,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at
Valamthodath House, Maradu PO.
8. B.K. Usha, D/o. late Krishnan Nair,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Kuriyedath House,
Thiruvankulam PO.
9. E.V. Chandran, S/o. Sri. E. Unnikrishnan,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Radha Nivas,
Narikkal Parambu, Kadavanthara Road,
Kaloore PO, Kochi-17.
10. N.K. Nandakumar, S/o. Sri. P. Krishna Pillai,
Working as Gramin Dak Sevak Mail Man,
Head Record Office, RMS 'EK', Division,
Ernakulam, Kochi-16, Residing at Parappillil House,
Kadavanthara PO, Pin 682 020. : Petitioners

(By Sri.O.V.Radhakrishnan, Senior Advocate with Ms.Rekha Vasudevan)

VS.

Mr.T Koshy, aged 58 years
Father's name not known to the petitioners
Superintendent
RMS 'EK' Division, Ernakulam : Respondent

(By Advocate Sri. P.S.Biju, ACGSC)

16. CP(C) 78/10 in O.A 410/08

1. K.K. Rajan Kutty, S/o. T.O. Kunjukunju,
Gramin Dak Sevaks, Ayravan Branch Office,
Pathanamthitta Division, Pathanamthitta,
Residing at Kundonumelathil, Ayravan P.O.,
Pathanamthitta, Pin-689691.
2. K.K. Sasi, S/o. Krishnan,
Gramin Dak Sevaks, Mali Deliverer,
Naranammoozhy, Pathanamthitta Division,
Pathanamthitta, Residing at Kallunkal House,
Adichipuzha P.O., R. Perunad, Pin-689711.
3. N. Balakrishnan, S/o. Narayanan,
Gramin Dak Sevaks, Karavoor,
Pathanamthitta Division, Pathanamthitta,
Residing at Mangalthu Veedu, Karavoor P.O.,
Piravanthoor, Pin-689696.

4. K. Vijayan, S/o. Kochika,
Gramin Dak Sevaks, Kunnicode,
Pathanamthitta Division, Pathanamthitta,
Residing at Pazhamthottil Veedu, Kunnicode P.O.,
Vilakudy Village, Pin-691508.
 5. Thankamma A.T., D/o. V.M. Thankappan,
Gramin Dak Sevaks, Pathanamthitta Division,
Pathanamthitta, Residing at Parakkal Olika House,
Nedumkunnam P.O., Nedumkunnam,
Karukchal, Pin-686542.
 6. K. Ramachandran Pillai, S/o. G. Karunakaran Pillai,
Gramin Dak Sevaks, Thadicadu,
Pathanamthitta Division, Pathanamthitta,
Residing at Devi Dersan Thevarthottam,
Thadicadu P.O., Anchal, Pin-691306.
 7. R. Ravindra Bhakthan, S/o. Ramachandra Bhakthan,
Gramin Dak Sevaks, Kattur, Pathanamthitta Division,
Pathanamthitta, Residing at Chakkattu House,
Cherkole P.O., Pin-689650.
 8. Rajan Nair, s/o. K.P. Krishnan Nair,
Gramin Dak Sevaks, Manampuzha,
Pathanamthitta Division, Pathanamthitta,
Residing at Muduvarickal, Kadampanda South,
Adoor, Pin-691553.
 9. Satheesh Kumar, S/o. C.T. Kesavan,
Gramin Dak Sevaks, Kozhencherry College P.O.,
Pathanamthitta Division, Pathanamthitta,
Residing at Chandayil Hosue,
Kozhencherry East P.O., Pin-689641.
 10. P.R. Sasi, S/o. P.K. Raghavan,
Gramin Dak Sevaks, Mampara,
Pathanamthitta Division, Pathanamthitta,
Residing at Edamuriyil Veedu, Malayalapuzha,
Makkuzhi P.O., Pin-689664.
 11. K.C. Balachandran Nair, S/o. Chandrasekharan Nair,
Gramin Dak Sevaks, Elappupara, Pathanamthitta Division,
Pathanamthitta.
 12. Aji Kumar V.A., S/o. Achuthan Pillai,
Gramin Dak Sevaks, Elanthoor, Pathanamthitta Division,
Pathanamthitta, residing at Thekkethil,
Elanthoor, Pin-686643.
 13. K. Navab, S/o. P.A. Hameed Sahib,
Gramin Dak Sevaks, Uthimoodu, Pathanamthitta Division,
Pathanamthitta, Residing at Thadathil House,
Ranny P.O., Pin-686672.
 14. Sujatha K., D/o. Krishnan Kutty, Gramin Dak
Sevaks, Edamulakal, Pathanamthitta Division,
Pathanamthitta, Residing at Ettivila Veedu,
Placheri P.O., Pin-691331.
- Petitioners.

(By Advocate Mr. M.R. Hariraj)

Vs.

1. Radhika Doraiswamy
Secretary

Ministry of Posts
New Delhi – 110 001.

2. Smt.Sobha Koshy
the Chief Post Master General
Kerala Circle, Trivandrum – 33

3. Sri.B Mohanan,
Superintendent of Post Offices,
Pathanamthitta P.O
Pin – 689 645

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

... Respondents

17. CP(C) 119/09 in O.A 263/08

1. K Rajan
GDS MD
Speed Post Centre
Thiruvananthapuram GPO
2. P.Omanakuttan
GDSMD
Ayroor, Varkala
3. G Pradeep Kumar
GDS BPM, Ayroor
Varkala
4. P Asokan
GDS MP Ayroor
Varkala

..... Petitioners

(By Advocate – Mr.Vishnu S Chempazhanthiyil)

V

Smt.Sobha Koshy
Chief Post Master General
Kerala Circle, Thiruvananthapuram – 33

.... Respondent

(By advocate – Mr.Sunil Jacob Jose, SCGSC)

18. CP(C) 23/10 in O.A 152/09

1. O.J Joy
S/o.C.J Joseph, GDS BPM
Chennaippara, Trichur District
residing at "Chamakalayil House"
Chennai Para P.O, Peachy, Trichur
District Pin – 680 653.
2. K.Krishnankutty,
S/o I Unnikrishnan, GDS MP
Trichur Central P.O Trichur
residing at "Bapu Nivas"
Nettiserry P.O, Trichur -680 653.
3. J Antony
G.C Joseph, GDS BPM
Chottupara P.O
Trichur, residing at
Ganapathy Plackel House, P.O
Chottupara, Via M.G Kavu,
Trichur – 680 581

....

Petitioners**(By advocate – Mr.Shafik M.A)**

V

1. Mrs.Sobha Koshy
Chief Postmaster General
Department of Posts
Kerala Circle, Trivandrum
2. Mr.K.K Jayasankar
Senior Superintendent of Post Offices
Trichur Division, Trichur
3. M.Shanmugham
Superintend of Post Offices
Postal Stamp Depot
Trichur

.....

Respondents**(By advocate Mr.Sunil Jacob Jose, SCGSC)**

19. C.P.(C) 91/2009 in O.A. No. 421/2008

1. P.A.Bhaskaran, S/o. late Aryan,
Working as Gramin Dak Sevak Mail Deliverer,
Vavad, Residing at Pallikunnummel House,
P.O.Puthupady, Via Thamarasserry, Calicut.
2. Rajamma Raghavan, D/o. Sri.Raghavan,
Working as Gramin Dak Sevak Branch Postmaster,
Puthur P.O. Kotuvally-673 572.
Residing at 'Karapattapoyil House,
Omasserry Post, Kotuvally, Calicut-673 572.
3. Vinod Justin.M.K., S/o. late Benchamin M.K.
Working as Gramin Dak Sevak Letter Box Peon,
Calicut HPO, Residing at Marakkattu Poyil House,
Vellimadukunnu P.O., Calicut -673 012.
4. P.Arunkumar, S/o. late Raghavan Nair,
Working as Gramin Dak Sevak Mail Deliverer,
Kolathara P.O., Calicut, Residing at Paranattil House
(Gokulam) P.O.Kolathara, Calicut-673 655.
5. C.M.Issac, S/o. late Mathew,
Working as Gramin Dak Sevak Mail Carrier,
Nenmenikunnu, Calicut, Residing at Cheerakathottathil
Nambikolly, Cheeral (Via)-673 595, Kozhikode.
6. Manoharan.K.V., S/o. late Chathunni,
Working as Gramin Dak Sevak Mail Packer,
Arakinar, Residing at Thodukapadom, Arakinar P.O.,
Calicut-673 028.
7. Viswanathan P.T., S/o. late Ramankutty,
Working as Gramin Dak Sevak Branch Postmaster,
Thachampoyil, Residing at Puthentheruvil House,
Thachampoyil P.O., Thamarassery (Via),
Calicut-673 573. : Petitioners

(By Sri.O.V.Radhakrishnan, Senior Advocate with Advocates Smt.K.Radhamani
Amma, Sri.Antony Mukkath, Sri.K.V.Joy and Sri.K.Ramachandran)

V.

1. P.Ramakrishan, S/o not known to the petitioners,
Senior Superintendent of Post Offices,
Calicut Division, Calicut-673 003.
2. Hilda Abraham,
D/o not know to the petitioners,
Postmaster General,
Northern Region, Calicut. : Respondents

(By Advocate Mr Sunil Jose, SCGSC)

20. C.P.(C) No.120/2009 in O.A No. 583/2008

K.H. Meera Sahib,
GDS MP,
Vadasserykara P.O.,
Pathanamthitta District. - Petitioner

(By Advocate Vishnu S. Chempazhanthiyil)

V.

Smt Sobha Koshy, age (not known to the petitioner),
Chief Post Master General,
Kerala Circle,
Thiruvananthapuram-33. ... Respondent.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

21. M.A.No.781/2010 in O.A.698/2008

1. N. Ajith, GDSMP, Thangasserry,
Krishnakripa, Near MES, Thannikamukku,
Perinad P.O., Kollam-691 601.
2. J. Chandra Mohanan, GDSMD, Kizhakkanela,
Sannidhanam, Kizhakkanela P.O.,
Paripally-691 574, Kollam.
3. T. Unnikrishna Pillai, GDSBPM Kara, Vaishnavam,
Vadacodu, Kura P.O., Pin - 691 557, Kottarakkara.
4. S.S. Padmaraj, GDSMD Paripally, Gopika,
Kizhakkanela P.O., Paripally, Pin - 691 574, Kollam.
5. Jayan K.S., GDSMD, Mukhathala,
Melachuvilla, Eravipuram P.O., Kollam. Applicants

(By Advocate – Mr. V.V. Suresh)

V.

1. The Superintendent of Post Offices, Kollam Postal
Division, Kollam - 691 001.
2. Union of India, Rep. by the Chief Postmaster General,
O/o. the CPMG, Kerala Circle,
Thiruvananthapuram-695 033. Respondents

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

This C.P.(C)s having been heard on 20.07.2011, the Tribunal on 29.07.2011 delivered the following:

ORDER

By Hon'ble Dr.K.B.S Rajan, Judicial Member -

The order(in a batch of as many as 37 O.As) of the Tribunal stated to have not been complied was passed on 15th December, 2008 and the operative portion thereof is as under:-

"64. In view of the above, all the O.As are allowed in the following terms. It is declared that there is absolutely no need to seek the clearance of the Screening Committee to fill up the vacant posts in various Divisions which are to be filled up from out of G.D.S. and Casual Labourers as per the provisions of the Recruitment Rules, 2002. Respondents are directed to take suitable action in this regard, so that all the posts, majority of which appear to be already manned by the G.D.S. themselves working as 'mazdoors'/at extra cost, are duly filled. In a few cases (e.g. OA 118/2008), the claim of the applicants is that they should be considered against the vacancies which arose at that time when they were within fifty years of age. In such cases, if the applicants and similarly situated persons were within the age limit as on the date of availability of vacancies, notwithstanding the fact that they may by now be over aged, their cases should also, if otherwise found fit, be considered subject, of course, to their being sufficiently senior for absorption in Group D post. If on the basis of their seniority, their names could not be considered due to limited number of vacancies and seniors alone could considered for appointment against available vacancies, the respective individuals who could not be considered be informed accordingly. Time calendared for compliance of this order is nine months from the date of communication of this order.

65. No costs."

2. The above order was challenged before the High Court in a number of writ petitions. The Hon'ble High Court, in its judgment dated 23-12-2009 in WP No. 30674 of 2009(S) not only upheld the above decision, but also rendered certain concrete findings after verifying the relevant records made available to the Court by the respondents in the OA.

3. The following are the clear findings -

- (a) The abolition is thus only in respect of posts to be filled up by direct recruitment.
- (b) There is no basis for the contention that only the vacancies cleared by

the screening committee can be filled up even in the matter of promotion. In view of the Division Bench decision in W.P. © No. 22818 of 2006, it is made clear that no clearance from the screening committee is required for filling up vacancies.

- (c) Records also show that the Department requires their service and the vacancies after the introduction of the Revised Group'D' Recruitment Rules 2002 still remain unfilled.
- (d) There is no purpose in conducting a test and all the vacancies remaining unfilled after the introduction of the rules in Sl. No. 1 of Column No. 1, Group D post should go to the categories of GDS/Casual Labours in the percentage of 75 and 25.

4. Time has been calendared for compliance of the directions given in the judgment vide paragraph 7 of the Judgment.

5. Though the Contempt petition had been filed prior to the above judgment, in view of the pendency of the writ petitions, no specific orders were passed for a substantial period on the Contempt Petition. The first direction for compliance was given vide order dated 16-04-2010 which reads as under:-

"All these Contempt cases are coming today for further consideration. When these matters came up previously before this Tribunal, we have directed the respondents to implement the order as early as possible, on issuing notices under Form-I of the Contempt Rules. As an answer to the above show cause, today the Department has filed an affidavit taking the stand that the Department is ready to implement the orders passed by this Tribunal. However, in paragraph 4 of the affidavit it is stated as follows:-.....

"4. It is submitted that the Hon'ble High Court in its Annexure R-1 judgement has given specific directions to the Department fixing the new time limit. As per the said judgement, the Hon'ble High Court was pleased to direct as follows:.....

"1. In case employees belonging to Sl No. under column No. 1 (Chawkidar/ Watchman/ Safaiwala/ Scavenger/ Gardener/Mali/ Waterman/ Bbhisti/ Mazdoor/ Hamal/ Cleaner/ Rest House Attendant/ Batterymen/ Ayaha(lady Attendant)/ Mechanical Workmen/ By hand peon/ Lascars) are not available in a division as qualified to appear in the test for appointment to the Group D post of Sl No. 1 of

column No. 1 Peons/ Letter box peons/ packer/ porter/ runner/ Van peon/ orderly/ Gate men/ Attendant-cum-khansama/ cleaner in Mail Motor Service/ Pump men), such vacancies shall be filled up immediately in the 75%-25%. It is made clear that being an appointment in the Division the available candidates for test shall be determined only with respect to the Division concerned. However, while considering the appointment in the GDS category, it is open to the Department to consider other eligible candidates in neighbouring Division/Unit in case of non-availability of candidates/members belonging in the Division.....

2. In case there is any employee available in serial No. 2 of column 1 (Chowkidar/ Watchman/ Saffaiwala/ Scavenger/ Gardener/ Mali/ Waterman/ Bisti/ Mazdoor/ Hamal/ Cleaner/ Rest House Attendant/ Batteryman/ Ayaha (Lady Attendant)/ Mechanical Workmen/ By hand peon/ Lascars) for appointment to Sl. No. 1 post Peons/ Letter box peons/ packer/ porter/ Runner/ Van peon/ orderly/ Gatemen/ Attendant-cum-khansama/ Cleaner in Mail Motor Service/ Pumpmen) in the year concerned, the department shall conduct a test to decide the eligibility in respect of the vacancies in each year. In order to avoid any confusion, it is made clear that in the test for the year 2002, the participation shall be based on the eligibility and availability and qualification of candidates as on the date of occurrence of the vacancies of that year. Such process shall be repeated in respect of each year depending upon the availability of vacancies. This process shall be completed within one month.....

3. But in case it is found that no candidate has become eligible in the test for being appointed to Sl. No. 1 of Column No. 1 posts (Peon/ Letter box peons/ packer/ porter/ Runner/ Van peon/ orderly/ Gatemen/ Attendant-cum-khansama/ cleaner in Mail Motor Service/ Pump men), such vacancies in each year shall be filled up from among the eligible GDS Casual Labourers available for appointment in that particular year. This process shall be completed within another two weeks.....

4. In case, in the above process vacancies arise in Sl. No. 2 under column No. 1 (Chowkidar/ Watchman/ Saffaiwala/ Scavenger/ Gardener/ Mali/ Waterman/ Bisti/ Mazdoor/ Hamal/ Clearner/ Rest House Attendant/ Ayaha (lady Attendant)/ Mechanical Workmen/ By hand peon/ Lascars) those vacancies shall be filled in accordance with the recruitment rules as per the method prescribed in serial No. 2 under column No. 11. The above process shall be completed within another four weeks, except in the case of Employment Exchange candidates. In the case of Employment Exchange hands, steps shall be taken to get the list from the Employment Exchange, without delay.".....

From the above, it is clear that the Hon'ble Court considering the submissions made by the department has given specific directions to be carried out in implementation of the said judgment with

specific time frame. The certified copy of the said judgment was received by the petitioners only on 21.01.2010.".....

2. With the above prayer, we have heard the counsel appearing for the parties and we have also considered the directions issued by this Tribunal. After considering the arguments of the counsel appearing for the parties, we are of the view that the Department has to verify and identify the Gramin Dak Sevaks who are eligible for promotion on the basis of their seniority even though they have not approached this Tribunal and the applicants who have got favourable orders from this Tribunal and who are entitled for promotion as per the orders passed by this Tribunal and also the applicants who have already filed another similar Original Applications and got orders in favour of them. In this context we are told that with regard to the vacancy position from 2002 onwards the Directorate has already received the reports from each Division as they have submitted before the Hon'ble High Court of Kerala. If so, the only question remains is that to find out the vacancy position and consider each of the applicant on the basis of their respective seniority position. For this purpose we feel that little more time can also be granted to the respondents to comply the order in full. Hence, we direct the respondents to comply the order of this Tribunal and report compliance by producing the orders to that effect before this Tribunal on the next date.....

3. It is also made clear that for the doubt entertained in the affidavit regarding the position of the posts arisen after 2006 has to be redesignated as Multi Skilled Employees will not arise in filling up of the vacancies in compliance of the order passed by this Tribunal. If any other vacancy exists otherwise or coming after 2006, it can also be considered for filling up by the vacancies left out by the Department.....

4. In the above line, we feel that for compliance of the orders and filling up the vacancies arisen from 2002 to 2006 can be done within one month from today and if other vacancies are left out the same can be filled up within two months and if so, the time granted for full compliance of the order is fixed as 3.6.2010.....

5. Post on 4.6.2010.....

6. A copy of this order be given to the counsel for the parties."

6. As there was not much of progress, the respondents were granted time, vide order dated 04-06-2010 which reads as under:-

"Even though this Court directed by an order dated 16.4.2010 the respondents to implement the orders passed by this Tribunal fully and file report of compliance before this Tribunal, an affidavit has been filed on 2nd June, 2010 by which the respondents have taken a stand that they could complete the procedure and final order will be passed in full compliance of the orders passed by this Tribunal within two months.

We have heard the counsel appearing for the applicants as

well as the counsel appearing for the respondents and we have also perused the reasons stated in the present affidavit. We are not satisfied by the lethargy now shown by the department even after passing of the order dated 16.4.2010. However, on considering the reasons now contained in the present affidavit though we with much reluctance allowing the respondents to complete the procedure and final orders shall be passed implementing the orders of this Tribunal within six weeks from today. It is also made clear that if the orders are not implemented fully as directed by this Tribunal the respondents shall face consequences by way of cost or action under the Contempt of Courts Act.

We further order that it is appropriate for this Tribunal to have the progress of the action being taken in the matter by the department. Therefore, for a formal assessment of the implementation or the steps taken by the department we are posting these matters for further verification on 5.7.2010.

A copy of this order be given to the counsel for the parties."

7. Certain directions for furnishing of information as called for has been given in our order dated 19-07-2010 and the same reads as under:

"We have heard the counsel for the parties in all these C.P(C) s and also Mr.Sunil Jacob Jose, SCGSC. Out of the discussions we had today, to implement various orders passed by this Tribunal in these OAs, there are some implications, which have far reaching effect of the orders. Firstly, we order to comply the order passed by this Tribunal, four separate things have to be ascertained and to be fulfilled.

(i) Department has to ascertain the vacancies with its break ups year-wise.

(ii) Department has to find out the seniority list of the GDS entitled for promotion to Group 'D' on the basis of seniority.

(iii) Department has to find out the candidates who are entitled for promotion, are within the age of 50 years or anybody having more than 50 years of age when the vacancy position and the seniority position are taken together for consideration of their promotion. (As per judgment of the Hon'ble High Court in W.P(C) No.33155/09)

(iv) Department to find out the vacancies from 2002-2009 year wise in each Division.

These information have to be collected from each Division and DPC shall also be held with above details for compliance of the order before 20.08.2010.

It is also to be noted by the Department that no need to have any clearance for filling up of these vacancies from the Screening Committee.

List for further consideration on 20.08.2010. Copy by hand. "

8. It was later on considered taking into account the prevailing vacancies as well and certain options were carved out in this regard and direction issued for complying "with the orders passed by this Tribunal by adjusting or by appointing all the applicants who have got the judgment from this Tribunal based on their seniority position in the division and eligibility." Order dated 27-10-2010 in this regard in full reads as under:-

"Heard the learned counsel for the parties.

Departmental representatives Mr. A.R. Reghunathan, Assistant Director of Postal Services (Legal Cell), O/o. CPMG, Trivandrum and Mr. Ajith Kurian, Assistant Superintendent (Legal Cell), O/o. CPMG, Trivandrum are also present in the Court and were heard.

As per the order dated 19.7.2010, we have suggested the method which the Department has to follow in order to comply with the different orders passed in different Original Applications by appointing the applicants in respective divisions. In pursuance to that order, affidavits have been filed stating the vacancy position already existed. Further it is seen from the affidavit that 286 and odd vacancies of Group-D have been abolished and some of the existed vacancies were not filled up due to non-clearance by the screening committee. Now after taking into account the abolition of posts and the question of granting permission or clearance from the screening committee, it is brought to our notice that there are only 48 vacancies up to 2008 and 97 vacancies existed for the year 2009. It means a total of 145 vacancies are still available to be filled up.

With regard to the first question of abolition of the posts, as per the finding entered by the Hon'ble High Court of Kerala in Writ Petition No. 28574 of 2009 and connected Writ Petitions, it is categorically held that there shall not be any question of abolition of posts to be filled up for the promotion quota as the abolition question comes only to the direct recruitment quota. Further the Hon'ble High Court has held that there is no question of any clearance by the screening committee to fill up the vacancies. It is also found by the Hon'ble High Court that there is no records to show that these posts were abolished on the basis of any order given by the competent authority and even if any abolition has been now ordered, it is only applicable to the direct recruitment quota.

With the above finding entered by the Hon'ble High Court of Kerala, the vacancy position existed from 2000 to 2009 are 431 vacancies including 286 vacancies alleged to have been abolished. If the Department wants to comply with the order passed by this Tribunal the Department shall take either to revive all the vacancies abolished without permission of law or without an order passed by the competent authority with regard to the promotion quota. Further

it is also held that if they are not in a position to fill up the vacancies already existed they should adjust the vacancies now arisen during the year 2009 i.e. 97 vacancies.

With regard to these two option it is left to the Department to take a decision on the matter and to comply with the orders passed by this Tribunal by adjusting or by appointing all the applicants who have got judgments from this Tribunal based on their seniority position in the division and eligibility. The entire action shall be completed within a period of 30 days from the date of receipt of a copy of this order and the respondents shall report compliance on the next date.

Post all these matters for further consideration on 30.11.2010. It is made clear that as far as the adjustment of the vacancies of 2009 is concerned, inspite of the recommendation of the Sixth CPC, we have found that the recruitment rules in this respect is yet to be amended. Hence, there is no bar for adjusting the vacancies, as we have suggested earlier. Ordered accordingly.

A copy of this order be handed over to the counsel for the parties."

9. When the non compliance was staring at the very face of the respondents, an unsuccessful attempt was taken to question the jurisdiction of the Tribunal in dealing with the Contempt matter as once the High Court had passed its judgment, the order of the Tribunal merged with the judgment of the High Court. This objection was dealt with in extenso in the order dated 24.2.2011 and the same negated and the fact that the contempt matter has to be proceeded had been duly recorded. In this regard, the following portion of the order dated 24-02-2011 is relevant:-

"15. An affidavit has been filed by the respondents in the matter, wherein they have produced Annexures R-5 & R-6 and it is stated that the respondents have already initiated action to implement the directions in the order dated 27.10.2010 though the respondents were informed by the Postal Directorate that the revised recruitment rules for multi tasking staff have been notified based on which they had issued directions to all the circle heads in the country to fill up all the vacant Group-D posts by following the revised recruitment rules. A copy of the letter dated 27.10.2011 is produced as Annexure R-5. According to them on a detailed examination of the revised recruitment rules, it is seen that the application of these new recruitment rules to fill up the 97 posts for the year 2009 will actually be more beneficial to the applicants than the old Group-D recruitment rule. Apparently, the applicants are insisting on following the old recruitment rules on the assumption that the new recruitment rules are likely to be less beneficial to the applicants and if the new rules are applied, it will further deprive the chances of the applicants for

getting appointment as Group-D. It is contended that the actual position is otherwise. According to them as per the new rules there is a chance to compete in the 25% competitive examination category where they can qualify in the examination and become eligible for appointment. Such a facility did not exist in the old recruitment rules. Further there is also a provision for appointment of casual labourers under 25% category in the new rules also and unlike in the old rules. Annexure R-6 is produced to show that the exercise was undertaken to compile data from all the divisions to show how things would be in both scenarios i.e. if the vacancies are filled up by following the new rules and also by the old rules. According to them 12 of the applicants are likely to get appointment under the old rules, in the process of filling up the 97 vacancies of 2009. On the other hand 13 applicants will be appointed once the multi skilled rules are applied and the remaining applicants can compete in the 25% examination category and if they are successful there is a chance for getting appointment. It is in these circumstances the respondents submitted that there is no violation wilfully or deliberately and they seek permission of this Tribunal to proceed to make appointment under the new rules.

16. The applicants in the other hand seriously opposed the prayer. According to them the question that was considered by this Tribunal and later by the Hon'ble High Court was as to the necessity of getting any sanction by the screening committee for appointment to the post of Group-D in the 50% quota for Extra Departmental Agents like the applicants and also 25% quota earmarked for casual labourers. The stand taken by the respondents was that since no sanction was obtained by the screening committee those posts were abolished which was not accepted by the Tribunal since it was found that there is no need to get any sanction as it was a promotional exercise and not an exercise to make appointment by direct recruitment. This view of the Tribunal is upheld by the Hon'ble High Court. It is contended that, all that is required to be done is to fill up the vacancies in accordance with the old rules and make appointment according to seniority to the respective earmarked quota from the Extra Departmental Agents as also from the Casual Labourers. It is also contended that since these vacancies arose as early as on 2002 onwards the new rules which has come into force evidently much after the order passed by this Tribunal and affirmed by the Hon'ble High Court has no application. It is submitted that the new rules has no retrospective effect and it is only prospective.

17. It is not the case of the respondents that in the light of the new rules appointments could be made only based on the new rules either because the old rules has been annuled or modified or repealed by the promulgation of the new rules with retrospective effect either expressly or impliedly. The question of granting any permission to make appointment does not arise because this Court is not sitting in the advisory jurisdiction. The question is as to whether they have complied with the order passed by this Tribunal as affirmed by the Hon'ble High Court. Admittedly they have not completed the process of selection yet. In such circumstances the present affidavit filed seeking permission to adopt the new rules is not maintainable as no such issue arise for consideration in the present contempt petition. Accordingly, the permission sought for is declined.

18. Since the respondents have not filled up the vacancies as directed, we are constrained to proceed with the contempt petition.

19. As this matter is taken as the leading case, for framing charges and appearance of the parties, post this matter on 22nd March, 2011."

10. On 22-03-2011 the following order came to be passed:-

"This contempt petition has been pending since Oct 2009. The allegation of the applicants in O.A 221/08 and connected cases is that the respondents have not fully implemented the order of this Tribunal dated 15.12.2010. The operative portion of the order is as under.

" 62. In view of the above, all the O.As are allowed in the following terms. It is declared that there is absolutely no need to seek the clearance of the Screening Committee to fill up the vacant posts in various Divisions which are to be filled up from out of G.D.S. and Casual Labourers as per the provisions of the Recruitment Rules, 2002. Respondents are directed to take suitable action in this regard, so that all the posts, majority of which appear to be already manned by the G.D.S. themselves working as 'mazdoors'/at extra cost, are duly filled. In a few cases (e.g. OA 118/2008), the claim of the applicants is that they should be considered against the vacancies which arose at that time when they were within fifty years of age. In such cases, if the applicants and similarly situated persons were within the age limit as on the date of availability of vacancies, notwithstanding the fact that they may by now be over aged, their cases should also, if otherwise found fit, be considered subject, of course, to their being sufficiently senior for absorption in Group D post. If on the basis of their seniority, their names could not be considered due to limited number of vacancies and seniors alone could be considered for appointment against available vacancies, the respective individuals who could not be considered be informed accordingly. Time calendared for compliance of this order is nine months from the date of communication of this order. "

No doubt, the respondents are bound to implement that order in its letter and spirit. Therefore, they are required to file a clear affidavit indicating the manner in which the aforesaid order has been implemented so that every one in this department who are waiting for the consequential appointment is clear about it. The respondents have, therefore, to indicate the number of vacancies available separately in each Division under the Kerala Circle. They also have to indicate as to why all those vacancies have not been filled up in accordance with the directions of this Tribunal, if are any reasons to do so.

The respondents counsel, Shri Sunil Jacob Jose, SCGSC has filed certain affidavits indicating some action taken in the matter and according to him the order has been substantially complied with and he has requested that this C.P(C) be closed.

However, the applicants in C.P(C) No. 95/09 has invited our

attention to certain information he obtained under the RTI Act with regard to the RMS TV Division as a test case. It reads as under:-

" (1) Number of vacancies in Group D cadre existed in each year from 2002-2009.

<i>Period</i>	<i>No. of vacancy</i>
2002	6
2003	12
2004	6
2005	10
2006	7
2007	12
2008	16
2009	9

(2) Number of posts filled against the above vacancies in each year from 2002-2009.

<i>Period</i>	<i>No. of vacancy</i>
2002	NIL
2003	2
2004	4
2005	3
2006	NIL
2007	1
2008	NIL
2009	NIL

From the aforesaid information, it is seen that there are altogether 78 vacancies in that Division for the period from 2002 to 2009. Out of the said 78 vacancies, 10 were already filled up as on 20.01.2010. Later on, 23 more posts have been filled up by an order dated 19.07.2010. The balance to be filled up was 45. From the said 45 vacancies also as we have seen from the Annexure R-7 indicating the details of the Group D vacancies of 2009 filled up by the respondents, 6 more vacancies have been filled up. Thus the balance number of vacancies to be filled up in that Division is 39. The respondents shall indicate the reasons as to why those 39 vacancies have not been filled up so far.

Similarly the respondents shall also submit the details regarding the group D vacancies in each year from 2002-09 separately in other Divisions and the number of vacancies have been filled up so far. The specific reasons for keeping unfilled vacancies, if any, shall also be indicated.

The learned counsel for the respondents Shri Sunil Jacob Jose, SCGSC has undertake to make available the aforesaid information to us within 6 weeks from today.

Personal appearance of the Officer concerned is dispensed with until further orders. List after vacation on 23.05.2011."

11. In their affidavit dated 25-04-2011, which was filed on 18-05-2011, the respondents have given various statistics as to the number of Group D posts abolished from 2002-2005 and had in para 6 and 7 thereof have stated as under:-

"6. This Hon'ble Tribunal may be pleased to see that the above position furnished above pertaining to RMS TV Division and also to the Circle as a whole, was accepted and upheld by this Hon'ble Tribunal on 27.10.10 when, after hearing the respondents personally, the Tribunal had given an option to the respondents either to revive the 286 posts which stood abolished for the period from 2002 to 2005 or to fill up the 97 posts which had arisen in the year 2009. As this Hon'ble Tribunal may realize, any attempt to revive the abolished posts would pose serious problems to the department and the services it offers to the public, Admittedly, since 2002, this department, like all other Central Government Departments, has been right sizing its man power in the Group C and Group D cadres. As part of this exercise, certain vacancies were asked to be filled up and certain others abolished. For the period from 2002 to 2005, specific orders were received (Annexure R-10 to R-13) identifying the number of posts to be filled in the Group D cadre as well as in the case of PA and postman cadre and the permitted posts were filled up in all these cadres. Where permission was not received for filling up, the posts were treated as abolished and no substitutes were arranged. In places where the posts of Pas/SAs, Postman and Mail Guard were abolished as per Government policy, the work has been managed through the induction of technology, by revising business processes, rationalizing existing methods of operations, re-distribution of responsibilities and also by providing additional manpower support through periodical reviews by re-deployment of existing manpower or creating GDS posts to supplement the postman cadre. In the case of Group D posts, where also work requirements had undergone some changes due to technology induction and revised modes of operation, the posts abolished were not necessarily the ones which fell vacant, but those where the work load was not at all, or not fully, justified. In cases where some justification was experienced, the department conducted establishment reviews to assess the workload in the Group D cadre and provide additional support by creating new GDS

posts. It is submitted that periodical establishment reviews are normally conducted once in three years in all departmental Sos but where there is need for assessing a sudden increase in workload due to unusual factors, there is provision to do so without adhering to the periodicity. On the basis of the establishment reviews conducted in this manner, 92 GDS posts have been created based on justified workloads, against the 286 Group D posts abolished. All these posts were filled up thereafter and the GDS thus appointed are now working against the said 92 posts. Therefore, any decision to revive these Group D posts which were abolished between 2002 and 2005, would involve the issue of what is to be done with the 92 GDS posts that were subsequently created to man the justified workload and the incumbents who have been appointed against these posts following all due procedures.

7. It is further submitted that the revival of these posts also involves certain administrative problems which needs to be addressed. In the first place, based on the establishment reviews, as mentioned above, there is no justification for the posts based on the prescribed parameters for assessing workload. Further, since these posts have not been operated for years together, administrative procedures require that these posts be got formally 'revived' with the approval of the competent authority, viz; the Ministry of Finance. This has been clearly spelt out in the directions received from the Directorate. Any proposal to revive a post requires matching savings to be offered. As all the vacant Group D posts have been ordered to be filled up by this Tribunal, the department cannot offer the required matching savings from the Group D cadre. Hence, to revive these 286 Group D posts, which are no longer justified as per the subsequent establishment review and the creation of the 92 GDS posts, matching savings will have to be offered primarily from the Postal Assistant/Sorting Assistant cadre, because abolishing or surrendering any post of postman to revive a Group D post could create considerable difficulties in managing the delivery work. As this Tribunal would realize, the delivery area of each post office is fast expanding due to the high paced urbanization and the department is already finding it difficult to manage the work with the existing staff. Any further depletion in postman cadre will jeopardize the smooth functioning of the department. It would also be difficult for the Circle to surrender more PA/SA posts out of the already depleted cadres. The respondents are already facing difficulty in managing the 1502 post offices in the Circle, 27% (409 Pos) of which are single handed, especially when, even majority of the two-handed and three-handed post offices are currently functioning as single handed offices. With the introduction of welfare schemes like Child Care Leave etc, the department is now facing acute shortage of staff in many of its offices to extend such benefits to the staff without hampering customer service and any further reduction in the sanctioned strength of the Postal Assistant/Sorting Assistant cadre would prove very detrimental to the quality of services offered by the department. It was taking into account all these entire practical and administrative difficulties that the respondents took a decision to fill up the 97 vacancies which arose in the year 2009 exercising the option given to the department by this Hon'ble Tribunal by its interim order dated 27.10.10. In compliance with the said order, the respondents had initiated action to fill up the vacancies of 2009 by following the old Group D Recruitment Rules and the process of filling up the 97 Group D vacancies which had arisen in 2009 has

been completed. In all a total of 377 posts out of the available 424 posts have been filled up by the respondents and the eligible officials are now in position in these posts."

12. The senior Central Government Standing Counsel has reiterated the fact that this Tribunal has given two options as could be seen vide order dated 27-10-2010 and the latter of the same which is more practicable and pragmatic has been followed and thus, there is no disobedience, much less wilful disobedience.

13. Counsel for the applicants on the other hand has submitted that an option which does not meet with the earlier direction given by the Tribunal and upheld by the High Court could not be the intention of the Tribunal at all, nor could such a modification is permissible under law.

14. Arguments were heard and documents perused. Certain salient features relating to Contempt Proceedings are apt to be referred to here and the same are as under:-

(a) Right or wrong the order has to be obeyed. - Director of Education vs Ved Prakash Joshi (2005) 6 SCC 98.

(b) Flouting an order of the court would render the party liable for contempt. *(ibid)*

(c) It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional directions or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible. *(ibid)* (Also *K.G. Derasari v. Union of India and Bihar Finance Service House Construction Cooperative Society Limited v. Gautam Goswami*, (2008) 5 SCC 339 :)

(d) casual or accidental or unintentional acts of disobedience under the circumstances which negate any suggestion of contumacy, would

amount to a contempt in theory only and does not render the contemnor liable to punishment (Dinesh Kumar Gupta vs United India Insurance Company (2010) 12 SCC 770)

(e) Once an order has attained finality, even if difficulties exist in implementation, the order has necessarily to be carried out in letter and spirit. - State of Rajasthan vs Mohan Singh (1995) Supp (2) SCC 153 at para 2. (Also see K.A. Ansari vs Indian Airlines Limited (2009) 2 SCC 164, wherein the Appx Court in an unambiguous term held, Difficulty in implementation of an order passed by the court, howsoever grave its effect may be, is no answer for its non-implementation.)

15. In the instant case, the act on the part of the respondents cannot be said to be such that there has been a deliberate disobedience. At least so far! The latitude given vide order dated 27-10-2010 cannot in fact change the original colour of the order of this Tribunal as upheld by the High Court. As stated in Ved Prakash Joshi (supra) Right or Wrong the order has to be complied with.

16. Once the Apex court has held that there cannot be any variation in the order to be complied with, the option made available to the respondents vide order dated 27-10-2010 has to be harmoniously construed with the spirit of the original order. Even in that order dated 27-10-2010, the mandate is that all the applicants shall be accommodated. Thus, when harmoniously read, all that the said order meant was only that attempt should be made to locate vacancies and if vacancies are not available, then other vacancies should be diverted. That far and no further.

17. Now, certain basic facts in the act of the respondents should be addressed here. First, they have been harping upon the fact of a number of posts having been abolished. True, these posts would have been abolished at the material point of time. But it was at a juncture when the posts to be filled up

by the GDS or Casual Labourers were treated as Direct Promotion and provision for abolition of posts is available for direct recruitment vacancies only and not for any other category of vacancy. However, the High Court itself has declared that there is no question of abolition of posts in respect of vacancies tenable by the applicants. This declaration after perusing the documents produced by the Respondents leads to a situation that the posts were not abolished. For such a declaration takes retrospective effect. For, when the Court clarifies a legal position, the same applies not only for the future but also has the retrospective effect. In this regard the decision of the Apex Court in the case of **Rajasthan State Transport Corporation vs Bal Mukund Bairwa (2)**, (2009) 4 SCC 299 is relevant. In that decision, the Apex Court has observed -

" 52. As has been pointed by Justice Cardozo, in his famous compilation of lectures *The Nature of the Judicial Process*, that in the vast majority of cases, a judgment would be retrospective. It is only where the hardship is too great that retrospective operation is withheld. A declaration of law when made shall ordinarily apply to the facts of the case involved."

18. Thus, at this juncture, there is no meaning in harping upon the same point of the post having been abolished. The said abolition even if made by a positive act, becomes non-est and in fact there must be automatic resurrection of the abolished posts. This is the legal position in so far as the availability of post is concerned. As a matter of fact at one point of time referring to certain other documents filed in a different O.A the SCGSC has given the information that the department made earnest attempt in getting the posts which were earlier abolished, revived and as many as 424 posts in various divisions pertains to Group D posts in Kerala Circle from 2002-2009 and these were brought back to existence. And on the basis of seniority all the GDS and on Division basis these posts are also being filled up.

19. Thus respondents are not reluctant at all in fully complying with the order

of this Tribunal. Now that the vacancies do exist, and eligible persons available for being accommodated, their promotion could comfortably be executed subject to other provisions of law relating to age as well as seniority position. These promotions would then be with retrospective effect but on notional basis so that those who are promoted would have the benefit of that many years of service for the purpose of pension. Pay could however be actual (after catering for annual increment as per the rules from the date of initial notional promotion) from the date the individuals function the promotional post.

20. It is possible that some of the GDS employees who are in their late fifties may not be prefer even promotion if they are not entitled to any pensionary benefits due to not fulfilling the requisite years of service on regular basis. They could, as GDS continue upto 65 years, while their age of superannuation would be 60 in case of their appointment in Group D post. Thus, options could be called for from such of the individuals who are to be accommodated against the vacant posts.

21. In view of the above, taking judicious note of the fact that so far no contumacious act has been committed, we are inclined to close these Contempt Petitions, but with the firm direction that in so far as implementation of the earlier order dated 15-12-2008 which stands upheld by the ^{13/12/08} ~~Apex~~ Court as early as in 2009, action should be taken to fill up all the vacancies meant for GDS and Casual labourers. The 424 posts referred to by the respondents shall all be filled up. There shall be a time bound plan in this regard and progress thereof shall be monitored by the Chief Post Master General. Adequate budgetary provisions should therefore be made to cater for the salary and other benefits to the incumbents. The entire action of consideration of the cases of applicants and similarly situated persons in Kerala Circle should be completed within a period of six months. This part of the order is passed invoking the provisions of order 24

of the CAT Procedure Rules, 1987, for proper implementation of the order of the Tribunal. No cost.

(Dated this the 29th day of July, 2011)

(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

(Dr.K.B.S Rajan)
JUDICIAL MEMBER