

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.154/99

Monday this the 11th day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER  
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Sreela. G.,  
D/o Gopalakrishnan Nair  
Pacheril House  
Pandanad West P.O.  
Chengannur.

...Applicant

By advocate Ms.K.Indu

Versus

1. The Director General of Post Offices  
Department of Posts  
Dak Bhavan, New Delhi.
2. Chief Postmaster General  
Kerala Circle, Trivandrum.
3. Superintendent of Post Offices  
Department of Posts  
Thiruvalla Division  
Thiruvalla.

...Respondents.

By advocate Ms. Rajeswari.A., ACGSC

The application having been heard on 11th June, 2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to direct the respondents to select and appoint her to the post of Postal Assistant under Thiruvalla Division under the EDA category, to declare that the difference of 10% of marks in comparison to the last open market candidate as an eligibility for considering EDAs as Postal Assistants/Sorting Assistants will only be with regard to the academic marks and to direct the respondents to consider her for appointment as Postal Assistant, under Thiruvalla Division, from the EDA category, considering the difference of 10% marks with the academic marks of the last open market candidates considered.

2. The applicant is working as an Extra Departmental Branch Post Master. She has completed more than 3 years of service as an ED Agent. She is possessed of the qualification to be appointed as Postal Assistant/Sorting Assistant.

The Recruitment Rules for appointment to the post of Postal Assistant/Sorting Assistant prescribe that 50% of the vacancy is to be filled up by direct recruitment and the remaining percentage by promotion through Departmental Promotional Examination, failing which the unfilled vacancies shall be offered to EDAs of the Recruiting Division/Units subject to their fulfilling the conditions as laid down in the notification dated 24.9.92. Inaction on the part of the respondents in selecting and appointing Postal Assistant from EDA category in Thiruvalla Division is arbitrary and illegal. The only criteria as per the Recruitment Rules is that 10% difference in marks for the academic qualification. Selection is to be made from the marks obtained in the following category, namely

- (1) 10+2 Examination or Higher qualification -40%
- (2) Typing Test -5 marks.
- (3) Data Entry Qualification -5 marks.
- (4) Aptitude Test -30 marks.
- (5) Interview -20 marks.

Though this is the procedure for selection, the Recruitment Rules have not been amended to the effect that the 10% difference in marks comparing with EDAs and last qualified open market candidate should be from totalling the above five components. It is unjust to say that the 10% comparison of marks from the EDAs and open market candidate is to be taken from all the 5 components of selection.

3. Respondents resist the OA contending that the marks obtained in each item were compiled. The applicant scored a total of



51.25 marks out of 100. The last open market candidate of the unreserved category selected had scored a total marks of 69.46 out of 100. In the instant case, an ED Agent eligible for selection should have scored 59.46 marks. As the applicant scored only 51.25 marks, she was not eligible for selection. As per the instructions of DG Posts letter dated 24.9.92 as modified, the ED agent should score not less than 10 marks in the total of the following items in comparison to the last open market candidate selected, namely;

(i) Academic qualification	.. 40
(ii) Typing	.. 05
(iii) Computer	.. 05
(iv) Aptitude Test	.. 30
(v) Interview	.. 20

The detailed procedure for selection notified in A-2 has been further revised as per R-3(a) and R-3 (b). Selection is not based on academic qualification alone. The applicant has not fulfilled the prescribed conditions and hence she was not selected.

3. A-2 is the amendment to the post of Postal Assistants/ Sorting Assistants- Recruitment Rules, 1990. There it is stated that "Only those Extra Departmental Agents would be eligible for being considered who have secured not less than 10% marks in comparison to the last open market candidate considered i.e. if in the last recruitment the last open market candidate selected had secured 75% marks, the Extra Departmental Agents to be considered should have obtained at least 65% marks. Bonus marks on admissible to open market candidates will also be admissible to those Extra Departmental Agents who are graduates or Post Graduates".

On the basis of this portion of A-2, the learned counsel appearing for the applicant argued that the percentage

of marks stated therein should be with reference to the academic qualifications only. If that was the intention of the rule makers, they ~~would~~ have made it very clear. In A-2, there is nothing stated that the merit percentage of marks stated there should be exclusively confined to academic qualifications. If such an interpretation is given, that particular portion in A-2 will not carry <sup>any</sup> meaning at all.

4. Respondents rely on R-3(b). It is a clarification.

It says that merit list of open market candidates is to be prepared in the descending order of merit by totalling the marks obtained by them in ~~Plus~~ 2 examination, typist test, data entry qualification, aptitude test and interview in the manner as elaborated in the office letter No.60-36/93-SPB-1 dated 28.2.95. The learned counsel appearing for the applicant submitted that R-3(b) equally applies to candidates like the applicant also. According to the respondents, they have adopted the procedure prescribed in R-3(b). Learned counsel appearing for the applicant argued that R-3(b) is in conflict with the Recruitment Rules. First of all, on going through A-2, we do not find anything that R-3(b) is in conflict with A-2. That apart, there is no attack against R-3(b). As long as R-3(b) is not under challenge, we are not called upon to decide whether it is in conflict with A-2.

5. So the position is that the respondents have adopted a particular procedure and that procedure is now attacked by the applicant and that attack of the applicant cannot be sustained in the light of A-2 and R-3(b).

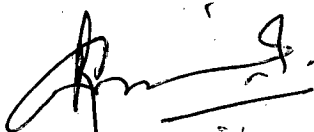
6. ~~xxxxxxxxxxxxxx~~ ~~xxx~~ Applicant<sup>3</sup> appeared before the Selection Board and having lost has approached this Bench of the Tribunal by filing this OA challenging the procedure



adopted. Having subjected herself to the selection without any murmur and having lost in the selection, the applicant cannot now turn round and say that the procedure adopted was wrong.

7. Accordingly the OA is dismissed.

Dated 11th June, 2001.



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.M. SIVADAS  
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- R-3(a) : True copy of the letter No.60-85/95-SPB-I(Pt) dated 18.3.96 of the Govt. of India, Ministry of Communications, Department of Posts, New Delhi.
- R-3(b) : True copy of the letter No.60-85/95-SPB-I. (PT) dated 7.6.96 of the Govt. of India, Ministry of Communications, Department of Post, New Delhi communicated by letter No.Rectt/4-1-Rlg dated 14.6.96 of the Chief Postmaster General, Trivandrum.
- A-2 : True copy of the Notification Circular No.Rectt/4-1/RLGS/92 dated 24.11.92 issued by the 2nd respondent.