

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.174/2000

Friday this the 7th day of September, 2001

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. D.Surendran,
E.D.M.C.,
Poonkulam P.O., Kottarakkara.
2. R.Aravindaksha Kurup,
Extra Departmental Branch Post Master,
Vadakkumbhagam, Chavara South.
3. T.Bijukumar,
Extra Departmental Packer,
Pulamon (on deputation at APS 837440SW
Sep/PRR, 1722 FPO, C/o 99 APO.

.. Applicants

(By Advocates M/s. O.V.Radhakrishnan, M.P.Prakash,
Thomaskutty M.A., and M.A.Shihabudin)

vs.

1. Senior Superintendent of Post Offices,
Kollam Division, Kollam.
2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. Union of India, represented by its Secretary,
Ministry of Communication, New Delhi.

.. Respondents

(By Advocate Ms.S.Chitra, ACGSC)


The Application having been heard on 12.7.2001, the
Tribunal on 7.9.2001 delivered the following:-

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

In the Kollam Division, 7 vacancies of Postal Assistants remained unfilled on the basis of the lower grade officials examination held on 11.10.1998. Out of these 7 vacancies, 3 were reserved for OBC. These vacancies were offered to the Extra Departmental Agents of Kollam Division who possessed the requisite qualification. It was provided

that the Extra Departmental Agents who have passed 10+2 standard or 12th class would be eligible for being considered. They should be within 35 years of age as on 31.8.1998 and should have completed minimum service of 3 years as Extra Departmental Agents and it was provided further that the merit list of ED Agents would be prepared in the descending order of merit by totalling the marks obtained by them in a)10+2 examination, b)typing test, c)data entry qualification, d)aptitude test and c) interview. It was also provided that only Extra Departmental Agents who have secured atleast 10% marks less in comparison to the last open market candidate selected would be considered for appointment and that the last open market candidate in the unreserved category had obtained 73.05 and in OBC 68.97. Incorporating all these conditions a notification was issued on 25.3.99 (Annexure A1). The applicants who are Extra Departmental Agents of Kollam Division belonging to general category, who had the requisite qualifications and length of service applied. They were called for the examination which was held on 8.8.99 and they appeared for the interview also. The second applicant had submitted a representation dated 29.10.1999 to the first respondent pointing out that the specification of separate minimum marks for unreserved category and OBC in the Annexure A1 notification was against the provisions of the recruitment rules of Postal Assistants and Sorting Assistants. However, after the process of selection, the applicants were informed by Annexure A3 order that noone called for the selection of Postal Assistants to fill up the unfilled vacancies of LGO examination held in



1998 offered to ED agents qualified in the selection. Alleging that the fixation of separate minimum marks for OC and OBC for selection was unjustified and discriminatory, the applicants have filed this application seeking to set aside Annexure A1 memorandum dated 25.3.99 to the extent it prescribes separate index marks for OC and OBC candidates for selection and for a direction to the first respondent to make a fresh selection strictly in terms of the notification of D.G., Posts dated 24th August, 1992 and also to disclose the marks obtained by the applicants.

2. The respondents in their reply statement seek to justify the impugned action and they contend that the applicants who have appeared for the selection pursuant to the impugned order (Annexure-A1) cannot be permitted to challenge the selection once they found that they were not selected. Regarding communication of marks, they contend that it is not permissible as per rules.

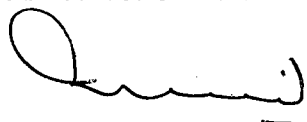
3. On a careful scrutiny of the entire pleadings placed on record and on hearing the learned counsel on either side, we do not find that the respondents have violated any of the statutory provisions or binding administrative instructions in fixing separate minimum marks of eligibility for selection to persons belonging to other backward communities and to general candidates. The unfilled vacancies were to be offered to the ED Agents of the Division as per the recruitment rules. The details regarding the selection are to be regulated by the administrative instructions. The

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vacancies earmarked to OBC cannot be filled by persons belonging to other communities. Therefore it is proper and justifiable to fix the separate minimum marks of eligibility for selection on the basis of the marks obtained by the last general candidate as also OBC candidate separately in the previous selection.

3. The respondents, however, should have communicated the marks obtained by each of the applicants on their request. The refusal to disclosure the marks obtained by the applicants on the ground that such a disclosal is not permissible under Rule 13 of Appendix 37 of P&T Manual Vol.IV is unsustainable as the above rule does not prohibit disclosure of the marks to the candidates if they make a request.

4. In the result the claim of the applicants for setting aside Annexure A1 memorandum to the extent it fixes separate index marks for OC and OBC candidates for selection and appointment ^{to Group D posts} from among E.D.Agents against the unfilled vacancies of lower grade officials and to set aside the selection on the basis of Annexure A1, is rejected. The prayer for directing the respondents to make a fresh selection is also rejected. However the application is disposed of directing the first respondent to disclose the marks secured by each of the applicants in the examination to them within 2 months from the date of receipt of a copy of this order. There is no order as to costs.



(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER



(A.V.HARIDASAN)
VICE CHAIRMAN

ANNEXURES

1. Annexure A-1 : True copy of the Memo No.88/25/Exam/97/ (Pt) dated 25-03-1999 of the 1st respondent.
2. Annexure A-2 : True copy of the representation dated 29-04-1999 of the 2nd applicant to the 1st respondent.
3. Annexure A-3 : True copy of the Memo No.88/25/Exam/98 dated 25-10-1999 of the 1st respondent.
4. Annexure A-4 : True copy of the Petition dated 29-10-1999 of the 2nd applicant to the 1st respondent.
5. Annexure A-5 : True copy of the Memo No.88/25/Exam/98 (Pt) dated 29-10-1999 of the 1st respondent.
6. Annexure A-6 : True copy of the Memo No.88/25/Exam/98 (Pt) dated 04-11-1999 of the 1st respondent.
7. Annexure A-7 : True copy of the Memo No.88/25/Exam/98 (Pt) dated 10-11-1999 of the 1st respondent.
8. Annexure A-8 : True copy of the Recruitment (Amendment) Rules, 1992 -D.G.Posts, Notification No.60-52/90-SPB-I dated 24th August, 1992 of the Director General of Posts, New Delhi.
9. Annexure A-9 : True copy of the Notification No.82/Rectt/98 dated 30-03-1998 of the Senior Superintendent of Post Offices, Thiruvananthapuram South Division, Thiruvananthapuram.