

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 174/2005

WEDNESDAY, THIS THE 23rd DAY OF AUGUST, 2006

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. K.B.S. RAJAN, JUDICIAL MEMBER**

- 1 R. Sudhakaran
Extra Departmental Mail Man
Railway Mail Service, Head Record Office
Trivandrum
- 2 K. Surendran
Extra Departmental Mail Man
Railway Mail Service, Head Record Office
Trivandrum.
- 3 S. Krishnan
Extra Departmental Mail Man
Railway Mail Service, Head Record Office
Trivandrum. Applicants

By Advocate Mr. Mathew Sebastian

Vs.

- 1 Union of India represented by
The Chief Postmaster General
Trivandrum
- 2 The Senior Superintendent
Railway Mail Service
Trivandrum. Respondents

By Advocate Mr. TPM Ibrahim Khan, SCGSC

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

This application is filed by three Extra Departmental Mailmen against alleged inaction of the respondents in filling up the backlog vacancies of SC/ST available in Gr. D posts in Railway Mail Service, Trivandrum.

2 The applicants entered the Railway Mail Service as Extra Departmental Mail Men on 25.4.1990, 30.11.1990 and 20.4.1990 respectively. The applicants' case is that there are 17 vacancies of Gr.D available in Trivandrum RMS Division and the respondents are legally bound to fill up the existing vacancies. The vacancies are kept unfilled by the Department on the pretext of ban on recruitment when there is no such ban. The applicants had filed OAs 178/2002 and 442/2002 for a direction to regularize their services in the department and there was a direction to consider the same and a Contempt Petition No15/2003 was filed and disposed off also. It is further submitted that the respondents have not acted upon the Govt. of India OM No 36038/1/2004-Estt (Res) dated 5.8.2004 directing holding a special recruitment drive to fill up the backlog vacancies reserved for Scheduled Castes and Scheduled Tribes, which is in accordance with the special protection given to

them in the Constitution of India.

3 The respondents have filed a reply statement in which they have averred that the applicants belonging to SC category were sponsored by the Employment Exchange and were working as Part time casual laborers in the units of Thiruvananthapuram RMS and were later appointed as GDS Mailmen on the dates mentioned in the application only as substitute arrangements in temporary Gr. D vacancies whenever vacancy arose and they were not offered officiating arrangements as Mailmen. The order of the Tribunal in the Original Applications 178 and 442 of 2002 was complied with by convening a Departmental Promotion Committee on 21.11.2002 and the senior-most GDS Mailmen positioned at Serial Nos.1and 2 in the Seniority List against unreserved category and the senior-most OBC candidate positioned at Sl. No.11 against OBC category were appointed. Since the names of the applicants appear in the seniority list at S. Nos. 6, 7 and 8, they did not come under the zone of consideration and hence were not selected for appointment. Further, communal reservation is offered based on reservation roster as per Directorate Order No137-10-97-SPB-II dated 21.8.97 and the clarificatory order issued by the CPMG, Kerala Circle dated 28.11.97 marked as R1 and R2 respectively. According to these orders 10% of the total posts are to be reserved for SC

while 1% to be reserved for ST and 27% for OBC. The total No of posts as on 1.4.2005 is 191. The required representation for various categories and the actual representation is given below.

<u>Category</u>	<u>Required</u>	<u>Actual</u>
OBC	47	34
SC	19	28
ST	1	2

Since there is over-representation of 9 officials in the SC category and 1 official in the ST category as explained above the Annexure A-1 order could not be implemented.

4 It is further submitted that recruitment process should commence only after obtaining the approval of the screening committee as per the decision in Annexure R-3 on the basis of which the RMS TVM division was allotted two vacancies for the year 2003 in which one vacancy was earmarked for unreserved category and the remaining one for OBC category. A DPC was convened on 25.2.2005 and the seniormost Mailman under the unreserved category was selected for appointment and the OBC vacancy will be filled up soon. Therefore the respondents have contended that they have acted strictly in accordance with the Rules and the applicants will be considered according to their

turn subject to the clearance of vacancies by the Screening committee. On the behest of the court, to clarify the year-wise vacancy position the respondents filed an additional reply statement enclosing the chart at Annexure R-5 which in short shows the following position.

Year	Actual strength	Actual representation		Over representation	
		<u>SC</u>	<u>ST</u>	<u>SC</u>	<u>ST</u>
2001	198	39	4	19	2
2002	192	37	4	18	2
2003	178	33	2	16	1
2004	171	30	2	13	1
2005	165	25	2	9	1

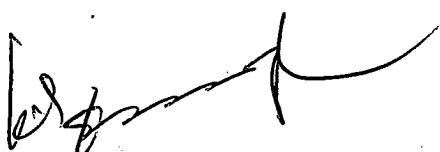
Thus the respondents have concluded that no post was reserved for SC/ST for the entire period from 2001 to 2005 as there was excess representation in these categories .

5 We heard the Learned counsels and have gone through the record. We have also perused the rosters produced by the

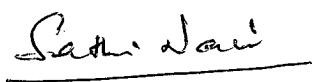
respondents. The applicants' grievances are two fold, firstly that there are 17 vacancies of Gr. D available and out of that the they should get their share of SC/ST vacancies and secondly that the respondents are deliberately keeping the posts vacant. Though the respondents admit the existence of vacancies, it is seen that direct recruitment in the Postal dept is limited to 1/3rd of the Direct recruitment vacancies arising in a year subject to a further ceiling that this does not exceed one percent of the total sanctioned strength. It has also been stipulated that recruitment process should commence only after obtaining the approval of the screening committee chaired by the Secy Posts. Accordingly only two posts had been cleared by the committee for the year 2003 during the period 2001 to 2005 of which one was unreserved and another allotted to OBC category. The respondents cannot be compelled to fill up the vacancies as it is the prerogative of the administration to decide when and how they should fill up the posts according to need. There was no vacancy reserved for SC/ST as there was already over-representation in those categories, as is obvious from the table extracted above. There was thus no need for launching a special recruitment drive as contended by the applicants to fill up the backlog vacancies as per the OM dated 5.8.2004 at Annexure A1. The applicants will have to be considered according to their turn and seniority as and when the process

for filling up the vacancies as approved by the screening committee is initiated. The applicants are thus not entitled to get the reliefs prayed for at this stage. OA is accordingly dismissed. No costs.

Dated 23.8.2006



K.B.S. RAJAN
JUDICIAL MEMBER



Sathi Nair
SATHI NAIR
VICE CHAIRMAN

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