

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 188/2010

Dated this the 28th day of July, 2010

C O R A M

HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

M.Ashoka S/o Narayana K.
Gramin Dak Service
Mail Delivery/Mail Carrier, Mayipaid
residing at Shreyas PO, Mayipadi
Kasargod-671 124

Applicant

By Advocate Mr. R. Jagda Bai.

Vs.

- 1 Union of India represented by the
Secretary to Department of Posts
New Delhi.
- 2 Postmaster General, Northern Region
Kerala Circle, Kozhikode-673 011
- 3 Superintendent of Post Offices
Kasaragod Division
Kasaragod -671 121
- 4 Assistant Superintendent of Post Offices
Kasaragod Sub Division
Kasaragod

Respondents

By Advocate Mr Sunil Jacob Jose,SCGSC

The Application having been heard on 14.7.2010, the Tribunal
delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is working as Gramin Dak Sevak Mail Deliverer / Mail Carrier, Mayipadi, Kasaragode w.e.f. 11.5.1978 (A-1). According to him, he belongs to OBC community. The applicant is the seniormost OBC candidate waiting for promotion. While so, the examination for promotion to the cadre of Postman/Mail Guard 2009 was notified on 18.12.2009(A-3), a vacancy was earmarked for OBC. But the applicant was not considered because of the error in the Seniority list wherein he is shown as OC instead of OBC and one K.Ananda GDS, Kadambar who was much junior to him was promoted against the vacancy earmarked for OBC. Aggrieved, he has filed this O.A for a declaration that he belongs to OBC, to set aside A-9 promoting a junior against the OBC quota. The main grounds urged are that the caste of the applicant clearly shows the community of the applicant as Sadhu Chetty which falls in the OBC in the Central list of backward classes, a junior was selected and that he is completing the age of 50 and would not get any opportunity for promotion thereafter.

2 The learned counsel for the respondents filed a counsel statement. As per the seniority list of GDS in the Kasargod Sub Division, the applicant belongs to "OC" category and that he applied for the examinations held on 18.10.09, 8.11.09 and 20.12.09 and in none of the examinations he came out successful. There were 4 vacancies of Postman under merit quota for OC candidates and 2 vacancies under seniority quota reserved for GDS. Out of the seniority quota, one vacancy was for OC and the other was reserved for "OBC". Selection on the seniority quota is made based on the recommendations of the DPC. The DPC held on 25.1.2010 recommended one Gopala Krishna Naik

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GDSBPM, Eddnad BO under "OC" quota and K.Ananda GDSMD Kdambar BO under "OBC" quota.. The applicant produced caste certificate from the Tahsildar Kasargod only on 15.2.2010 by which time the DPC had made its recommendations. It is also stated that as per the records, the applicant belonged to "OC" community. The selected candidates were sent for training from 4.3.2010 to 13.3.2010. However, the appointment is stayed by the Tribunal vide its orders dated 9.3.10. Therefore, further training is kept in abeyance w.e.f. 12.3.2010.

3 We have heard the parties and perused the records produced before us.

4 A perusal of the copy of the SSLC book would show that the name of the applicant is "Ashoka M and his community is shown as "Sadhu Chetty". The gradation list published by the Department as on 1.7.2007 shows that the applicant's name is at Sl. No. 30 as "M. Ashokan" and his community is shown as "OC" (A-4). The OBC reservation became effective only in 1993 vide OM dated 8.9.1993. So, there cannot be recruitment of OBC prior to this date. The applicant took steps to request for change of community as "OBC" very late and, by the time, the DPC meeting was over and an employee belonging to OBC community was selected and sent for training.

5 It is seen from the copy of SSLC certificate of the applicant that he belongs to "Sadhu Chetty" community. There is no dispute that it is one of the backward communities included in the "OBC" category in Kerala State. The submission of the applicant is that the seniority list published on 1.7.2007 was not circulated to him.

6 When the applicant entered service on 11.5.1978, there was no reservation for OBC candidates, therefore, admittedly the religion of the applicant would have been noted as Hindu "OC" without specifically

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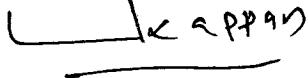
noting his caste. As per the instructions on reservation for OBC in the Postal Department, efforts would have to be made to secure representation for candidates belonging to OBCs on the in Group-C and D cadres. It is seen from the seniority list that a few GDSs even senior to him have got their community status altered from "OC" to "OBC". The applicant has produced a certificate showing that he belongs to OBC community, only after the DPC meeting held on 25.1.2010. He had plenty of time, to produce OBC and non-creamy layer certificates any time from 1994 onwards. His juniors have availed this in time.

7 In this view of the matter, the ends of justice will be met if we dispose of the Application with the direction to the respondents to correct the caste status of the applicant in the Service Records as belonging to "OBC" community, instead of "OC" w.e.f. the date of submission of the certificate from the competent authority. He shall, therefore, be considered as belonging to "OBC" community from that date onwards and henceforth he shall be eligible for all benefits granted to that category. With this declaration, the O.A. is disposed of. The interim stay ordered on 9.3.2010 is vacated. No costs.

Dated 28th July, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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JUSTICE K. THANKAPPAN
JUDICIAL MEMBER