

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 204 OF 2010

Monday, this the 4th day of April, 2011

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

Geethakumari C.S
Upper Division Clerk
Passport Office
Thiruvananthapuram

... Applicant

(By Advocate Mr.P Santhosh Kumar)

versus

1. Union of India represented by the Secretary
Ministry of External Affairs
Government of India
New Delhi
2. The Joint Secretary (C.P.V) and Chief Passport Officer
Ministry of External Affairs
New Delhi
3. Regional Passport Officer
Thiruvananthapuram
4. Pankaja O.K.
Assistant
Passport Office, Kozhikode
Residing at B-18, Passport Office Quarters
Eranjipalam, Kozhikode
5. Shobhana V
Assistant
Passport Office, Kozhikode
Residing at C-32, Passport Office Quarters
Eranjipalam, Kozhikode
6. Reena P
Assistant
Passport Office, Kozhikode
Residing at Kollambath House
Panniyankaran, Kallai, Kozhikode
7. Sreelatha K
Assistant ,Passport Office, Kozhikode
Residing at Elayedth House, Vengeri PO
Kozhikode

8. Mini P
Assistant
Passport Office, Kozhikode
Residing at Qrs.No.C-33, Passport Office Quarters
Eranjipalam, Kozhikode
 9. Vijayan K
Assistant
Passport Office, Kozhikode
Residing at Kandiyoth House
Nanminda Post, Kozhikode
 10. Geethamani T.P
Assistant
Passport Office, Kozhikode
Residing at Vignesh, Pilassery,
Edakkadu Post, Kozhikode
 11. Venugopal E.M
Assistant
Passport Office, Kozhikode
Residing at Edavanameethal House
Nut Street Post, Vadakara, Kozhikode
 12. Subhasini K
Assistant
Passport Office, Kozhikode
Residing at Bhagavath Kripa, Edakkadu
Kozhikode
- Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC)

The application having been heard on 04.04.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant had earlier filed OA 45/09. She is a Upper Division Clerk aspirant for promotion to the post of Assistant. The promotion to the post of Assistant is made through the Limited Departmental Examination. By circular dated 17.09.2008, 454 vacancies in the grade of Assistant have become available for promotion from UDCs to Assistants. As per revised Recruitment Rules, 2004 (Group 'C' posts) 75% of the total posts available, i.e 341 posts have to be filled up by departmental:



promotion and 25% of the total posts available, i.e 113 posts have to be filled up through Limited Departmental Examination. We are concerned only with the 25% of the posts available to be filled up by Limited Departmental Examination. As per the Recruitment Rules, the eligibility criteria is stated in the circular as under:

- i. eight years of regular service in UDC grade.
- ii. UDC with sixteen years of combined regular service as UDC & LDC in CPO cadre
- iii. In the case of persons holding the post of UDC on regular basis before the commencement of CPO RRs 2004, i.e 3rd March, 2004, the eligibility to the post of Assistants shall be five years regular service in the feeder grade.
- iv. Possession of a bachelor's degree of a recognized University or its equivalent."

2. By the same circular, certain relaxation were also made in respect of UDCs who were promoted as on 21.01.2003 and 26.02.2004 by giving one year relaxation from five years to four years and relaxation of two years from five years to three years respectively. The last date of receipt of application as indicated in the notification was 26.09.2008. The examination scheduled was on 23.11.2008. But other applicants some of whom who satisfied the requisite qualification as on the last date of submission of the application i.e 26.09.2008 were not allowed to participate in the examination held on 23.11.2008 as proposed. They approached this Court by filing different OAs and they were disposed of by a common order. Annexure R-2 is the copy of the said order. The applicant in the present case had filed OA 45/09 along with a few others. After adjudicating the various issues, the OA was disposed of with the following directions:-



To sum up,

a) O.A. No. 737/08 is dismissed.

b) For Applicants in OA No. 739/08, 754/08 and 45/09, as they are holding the post of UDC and are having combined service of 16 years, respondents shall conduct the requisite examination within 3 months from the date of communication of this order and on the basis of performance in that examination, their promotion shall be worked out.

c) In respect of applicants in other O.As, who have given their examination on the strength of interim order and which has been made provisional, the same be treated as absolute and promotion be granted on the basis of the results in that examination.

3. Pursuant thereto, a Supplementary Examination was conducted on 21.03.2010 by Annexure A-4. The applicant appeared in the said examination and she has been included in the rank list of successful candidates. The prayer made in the application is for a direction to the respondents to set aside Annexure A-4 to the extent it has prescribed a cut off date as 26.09.2008 for computing combined service of 16 years in the grade of UDC and LDC and to set aside Annexure A-5, in so far as the applicant is concerned. Annexure A-5 is the fax message informing the applicant that she does not have the eligibility norms as she did not complete 16 years of combined service as LDC and UDC s on 26.09.2008 as directed by this Tribunal in the earlier OA. According to the applicant, Annexure A-4 communication inviting applications being dated 12.01.2010, the above date has to be taken to fix the eligibility criteria to apply for the examination. The cut off date fixed as September, 2008 is arbitrary, illegal and unjustifiable.

4. The respondents on the other hand would contend that the Supplementary Examination was held pursuant to the directions of this



Tribunal as per Annexure R-2 order and therefore, cannot extend the date for satisfying the qualification beyond the original date of 26.09.2008, which was the subject matter of consideration in the earlier OA.

5. We have heard Mr.P.Santhosh Kumar, learned counsel for applicant and Mr.Sunil Jacob Jose, the learned SCGSC for respondents.

6. Admittedly, the applicant had approached this Tribunal earlier by filing OA 45/09 along with various other persons. Similar OAs were also filed. The challenge was against the denial of opportunity to the applicants and similarly situated persons some of whom have qualified as on the cut off date and had responded for the notification. This Tribunal after considering the rival submissions directed the authorities to conduct a Supplementary examination so that all those who were otherwise entitled and eligible as on the cut off date, who had applied, could not have been denied the right to participate in the examination. Therefore, instead of cancelling the entire examination, this Tribunal thought it fit to conduct a supplementary examination so that all those who were qualified as on 26.09.2008, being the last date of submission of the application and who responded to the earlier notification, could appear in the supplementary examination for being considered for promotion. Therefore, the supplementary examination will have to be taken as a method by which the Tribunal thought it fit not to cancel the earlier examination. It must be remembered that the notification itself was to fill up the vacancies which arose on the date of notification i.e. 17.09.2008. If anybody became qualified subsequently, they could not have participated in the examination




held on 23.11.2008. Their right to appear for the examination will arise only to the subsequent vacancies arisen after 17.09.2008 or 26.09.2008 the cut off date for submission of the applications. Having due regard to the object that the very supplementary examination is intended to benefit only those persons who are otherwise entitled to the first examination pursuant to the notification earlier issued, we do not find any force in the contentions as against the cut off date so fixed.

7. According to the applicant, she was a party in the earlier OA and she having participated in the examination, she ought to be considered as against that vacancies notified. We are unable to accept this contention. This Court did not consider in OA 45/09 regarding the entitlement of the applicant to participate in the examination with reference to the qualification she possessed as on the cut of date ie, 26.09.2008. If as a matter of fact, she had satisfied all the requisite qualification as on 26.09.2008 certainly her inclusion in the rank list would entitle her of being considered against the vacancies notified earlier. But admittedly, she did not have completed 16 years of combined service as on 26.09.2008. Merely, because she had appeared in the examination, for competing with other qualified persons against the earlier notification issued so long as she would not satisfy the eligibility criteria, that will not confer any right on her to be considered for promotion to the vacancies which arose prior to her acquisition of the relevant qualification. We do not find any infirmity in Annexure A-5 order. OA has no merit and is dismissed. No costs.

Dated, the 4th April 2011.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


JUSTICE P.R.RAMAN
JUDICIAL MEMBER