

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 223/2011

Wednesday, this the 22nd day of February, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

Haridasan.P.P.,
S/o late Kunhiraman,
Parkkaparambath House,
Oravil.P.O., Naduvannur-673 614,
Gramin Dak Mail Deliverer,
Oravil Post Office, Naduvannur,
PIN: 673 614. - **Applicant**

(By Advocate Ms R.Jagada Bai)

v.

1. Union of India represented by the
Secretary to Department of Posts,
New Delhi-110 001.
2. Superintendent of Post Offices,
Vatakara Division, Vatakara-673 101.
3. Sathish.A, Postman,
Nut Street MDG, Vatakara-673 101.
4. Sudheer Kumar.C, Postman,
Payyoli MDG, Vatakara-673 522.
5. V.Asokan, Postman,
Edacheri Sub Post Office,
Edacheri-673 502.**Respondents**

(By Advocate Mrs Deepthi Mary Varghese, ACGSC for R.1&2)

(By Advocate Mr PC Sebastian for R.4)

(By Advocate Mr Martin G Thottan for R.3 & 5)

This application having been finally heard on 15.02.2012, the Tribunal on 22.02.2012
delivered the following:

ORDER**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

The applicant, an S.C. Candidate, functioning as Mail Deliverer, Oravil Post Office participated in the examination held on 13-09-2009, for the post of Postman/Mail Guard against the 2006 vacancies for Vatakara Postal Division,. The notified vacancies were 3 under the promotion quota while the remaining one is to be filled up by Direct Recruitment. The promotion vacancies were to be diverted to GDS merit quota as none could be held eligible and suitable for promotion and it is thus, the applicant could participate in the examination. As the name of the applicant did not figure in the list of successful candidates, he obtained the details of marks secured by him in the examination and the same was 134. The applicant could find that another candidate (an OBC category) who secured only 131.5 was found empanelled. Thus, the applicant has filed this OA, impleading the said individual as Private Respondent as also the other two selected individuals. The applicant contended in his OA that there is no question of reservation for OBC in promotion and the applicant relied upon Annexure A-7 and Annexure A-8 decisions of this Tribunal in OA No. 232 of 2010 and OA No. 436 of 2010. The reliefs sought are as under:-

- (i) Quash and set aside Annexure A-4.
- (ii) Promote the applicant to the cadre of Postman according to his merit in the departmental examination held on 13.09.2009 with consequential benefits.
- (iii) Any such remedy deemed fit and proper as this Hon'ble Tribunal may be pleased to order.
- (iv) Grant costs to the applicant.



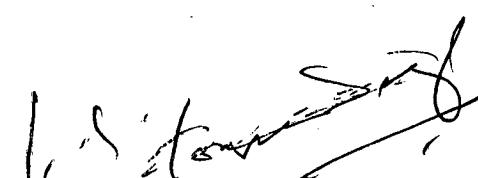
2. Respondents have contested the O.A. They have stated that initially as notified, there were three vacancies under promotion quota and one for direct recruitment and since none could be got promoted, the promotion quota was diverted towards merit quota of G.D.S. Of the three vacancies, two were earmarked as UR while one went to OBC. In the examination, the third and fourth respondents emerged meritorious under unreserved merit quota securing 139 marks, while the fifth respondent, an OBC candidate who secured the highest marks of 131.5 amongst the OBC candidates was also selected under the OBC category.
3. Private respondents have also filed their version defending their case.
4. The applicant has filed the rejoinder, reiterating the contentions raised in the O.A.
5. At the time of arguments, the counsel for the applicant argued that it is settled law that in matters of promotion, there is no element of OBC reservation. As such, the selection is illegal. Counsel for the respondents submitted that the applicant is not right in contending as such and even if there be no reservation of OBC and the third vacancy should also be thrown open to Unreserved Category, yet, the applicant cannot raise this issue for, as there are at least four individuals who had secured marks more than the applicant, vacancy if any, would go only to the individual in the order of merit and the applicant cannot be appointed against the vacancy.
6. As details of marks obtained have not been furnished, an affidavit had been called for and the same was filed by the respondents. It is seen therefrom that the following individuals had secured marks higher than that of the

applicant:-

- (a) Sl. No. 2 - Vinodan M.V. 138.5
- (b) Sl. No. 38 - Prasanth P.P. 135
- (c) Sl. No. 61 - Sunitha B 137
- (d) Sl. No. 90 - A.K. Sreelatha 138

7. The above would go to show that even if the third vacancy which has been allotted to the OBC was to be diverted to Unreserved Category, obviously, the person who could be selected is only the highest mark holder and not the applicant. As such, leaving the issue whether the respondents' action in earmarking one vacancy to OBC is right, open, in so far as the applicant is concerned, since there is no scope of the said applicant being accommodated, the OA is liable to be dismissed. We order accordingly. No cost.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER

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