

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH,  
ERNAKULAM

Date of Decision

30th March, 1990.

Present

Hon'ble Shri S.P.Mukerji, Vice Chairman  
&  
Hon'ble Shri A.V. Haridasan, Judicial Member

ORIGINAL APPLICATION NO.371/89

P. Leelavathi .. Applicant

Vs.

1. Union of India,  
represented by Secretary  
to Government, Deptt. of Posts,  
Central Secretariat,  
New Delhi.
2. Senior Superintendent of  
Post Offices, Calicut Division,  
Calicut.2.
3. The Post Master General of  
Kerala, Post -Master General's  
Office, Trivandrum.
4. The Director General of  
Post and Telegraphs,  
Department of Posts, New Delhi.

.. Respondents

Counsel for the applicant .. Johnson Manayani

Counsel for the respondents .. Mr. Thomas John, ACGSC

**ORDER**

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 19th June, 1989 under Section 19 of the Administrative Tribunals Act, the applicant who has been working as Extra Departmental Branch Post Master (EDBPM) has prayed that the maximum age limit fixed for recruitment to the post of Postman/Group 'D' test category is unconstitutional and should

be set aside. She has also prayed that the respondents be directed to allow the applicant to appear in the Departmental Examination for recruitment to the cadre of Postman/Mail Guards and to declare that non-inclusion of her name in Annexure-C should be declared as illegal and void.

2. The brief facts of the case are as follows. The applicant was appointed as Extra Departmental Branch Post Master on 18.11.68. Her date of birth is 15.6.1940. The Group 'D' posts in the Postal Department are filled-up by the provisions in the Posts and Telegraphs (Group'D') Recruitment Rules, 1970 from the categories of (a) non-test categories, Extra Departmental Agents (b) E.D. Agents of recruiting Division/Unit (c) Casual Labourers (d) E.D. Agents of neighbouring Division and (e) nominees of Employment Exchange. The posts of Postman however, are filled up in accordance with the Posts and Telegraphs (Postman and Mail Guards) Recruitment Rules, 1969/1989. Both these rules empower the Director General of Posts to prescribe eligibility conditions for E.D. Agents to appear in the examination. The D.G. P&T in accordance with this power prescribed the upper age limit of 42 years (47 years for SC/ST) for E.D. Agents to appear in the departmental examination. The applicant accordingly appeared in the test in 1979 but was not successful. At that time she was only 39 years of age. She crossed the upper age limit of 42 years

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on 15.6.82. Her grievance is that no departmental examination was held in 1980 and 1981. When tests were held in 1982 and 1987 she was not permitted to appear as she was over aged. She has challenged the upper age limit of 42 years as having no legal basis.

3. According to the respondents the upper age limits were prescribed by the D.G. in the interest of efficiency of Postmen.

However, since 50 percent of promotion as Postal Assistant are made from the Postmen cadre it would have been difficult to get Postal Assistant with sufficient number of years service still left. They have controverted the contention of the applicant that no tests were held in 1980 and 1981 and stated that "in fact, tests for recruitment to the cadre of Postmen were held on 27.7.80, 12.7.81 and 18.7.82 and test for selection to Group 'D' posts was held on 4.10.81".

The applicant could have appeared in these examinations when she was within the age limit. The applicant was admitted provisionally in the departmental examination held on 30.7.89 under the interim orders of this Tribunal. To these averments the applicant has stated that she was never called to appear in the tests held during 1980, 1981 and 1982.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. At our instance the respondents produced a text of the Indian Posts and

Telegraphs (Postmen/Mail Guards/Head Mail Guards) Recruitment Rules, 1969 and further produced their amended version which was notified on 16.7.89. The latter rules would govern the departmental test which was held on 30.7.89 and to which the applicant had <sup>been</sup> admitted under the interim orders of this Tribunal. For the posts of Postman the 1969 rules prescribed 50 percent to be filled up by direct recruitment and 50 percent by promotion failing which by direct recruitment. Under the columns meant for direct recruitment Note:2 reads as follows:

"Extra departmental staff may be considered for the vacancies reserved for direct recruitment subject to such conditions and in such manner as may be decided by the Director General, Posts and Telegraphs, from time to time."

The Rules also prescribed that in case of recruitment by promotion or transfer permanent/quasi permanent Class IV officials who qualified in the departmental test would be eligible. The age limit for direct recruits was prescribed as 18 to 24 years while for promotion the age limit prescribed was 20 to 45 years.

5. In the 1989 Recruitment Rules for the post of Postman the following age limits for direct recruits were prescribed:

- "(i) Between 18 and 25 years (Relaxable for Government servants upto 35 years in accordance with the instructions issued by the Central Government.
- (ii) Extra Departmental Agents who have been recruited on or before 16.11.82 shall be eligible if they are within 42 years (47 years for SC/ST) of age and those appointed after 16.11.82 shall be eligible, if they are within 35 years (40 years for SC/ST) of age and have put in three years of regular and satisfactory service."

In the column "method of recruitment whether by direct recruitment or by promotion or by deputation/transfer" the following was prescribed:

- "1. 50% by promotion, failing which by Extra Departmental Agents on the basis of their merit in the Departmental Examination.
2. 50% by Extra Departmental Agents of the recruiting Division or unit, in the following manner, namely:-
  - (i) 25% from amongst Extra Departmental Agents on the basis of their seniority in service and subject to their passing the Departmental Examination failing which by Extra Departmental Agents on the basis of merit in the Departmental Examination;
  - (ii) 25% from amongst Extra Departmental Agents on the basis of their merit in the Departmental Examination.
3. If the vacancies remained unfilled by EDAs of the recruiting division, such vacancies may be filled by EDAs of the postal division falling in the zone of Regional Directors.
4. If the vacancies remained unfilled by EDAs of the recruiting units such vacancies may be filled by EDAs of the postal divisions located at the, same station. Vacancies remaining unfilled will be thrown open to Extra Departmental Agents in the region.
5. Any vacancy remaining unfilled shall be filled up by direct recruitment through the nominees of the Employment Exchange."

In the column for feeder category for promotion/deputation/transfer the following were prescribed:

- " 1. Promotion from Group 'D' officials who have put in three years of regular and satisfactory service as on the closing date for receipt of applications through a Departmental Examination.
2. Extra Departmental Agents through a Departmental Examination.
3. Direct Recruitment through a Departmental Examination"

From the above it is clear that Extra Departmental Agents can be brought in as Postman both in the promotion quota as also in the

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direct recruitment quota but only after passing the Departmental Examination. While they are recruited against the direct recruitment quota the upper age limit was prescribed as 42/47 years but when they were considered for promotion by transfer, they were not subjected to any age limit. It is true that in the 1969 Rules when EDAs were to be considered against direct recruitment vacancies the normal age limits of 18 to 24 years was not to apply but D.G P&T prescribed the age limits of 42/47 years (SC/ST) in his orders dated 20.3.79 and dated 7.4.80. While for promotion the upper age limit was 45 years in the 1969 Rules no upper age limit was prescribed for promotion or transfer of EDAs in the 1989 Recruitment Rules.

6. The applicant before us was within the age limit of 42 years prescribed by the D.G P&T, till 15.6.82. She appeared in the 1979 examination but she did not appear in the examinations held on 27.7.80 and 12.7.81 when she was within the upper age limit. It was for her to apply for admission in the examination or to represent in case she <sup>was</sup> ~~is~~ not admitted. She cannot lay the blame on the respondents by stating that since the respondents did not call upon her to appear in the examination she did not appear. Further, having appeared in the 1979 examination and having failed to appear in the 1980 and 1981 examinations she cannot challenge in 1989 the ~~wires~~ <sup>vi</sup>res of the Recruitment Rules so far as the upper age limits are concerned. However, it appears from the 1989 Recruitment

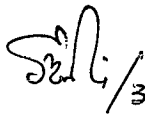
Rules, that Extra Departmental Agents can appear in the Departmental Examination for the post of Postman for which direct recruitment is permissible only after the vacancies remain unfilled by promotees or Extra Departmental Agents. In the 1989 Rules the upper age limits of 42/47 years are prescribed against direct recruitment vacancies but not against promotion/transfer vacancies. Since direct recruitment is resorted to only if other methods of recruitment <sup>or</sup> ~~of~~ promotion of EDAs failed and the upper age limits of 42/47 years <sup>of</sup> of E.D.Agents are prescribed only in the columns against direct recruitment, we find no material to conclude that for the 1989 examination <sup>any</sup> ~~no~~ upper age limit for EDAs is prescribed. Since it is not the respondents' case that the 1989 examination was held for direct recruitment, after exhausting the methods of 50% by promotion and 50% by EDAs of recruiting units and neighbouring units, the aforesaid age limits cannot be imposed on the applicant who is an Extra Departmental Branch Post Master.

7. In the facts and circumstances, we allow the application only in part to the extent of directing that the applicant is eligible so far as age limits are concerned to appear in the 1989 Departmental Examination. She should accordingly be considered for

selection as Postman if she is otherwise eligible and comes within the selection zone through her performance in the said examination, the results of which should now be published.

There will be no order as to costs.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER 30/3/90

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(S.P. MUKERJI)  
VICE CHAIRMAN

30.3.1990

Ksn.