

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH,  
LUCKNOW.**

**Original Application No. 519 of 2006**

Reserved on 17.2.2014

Pronounced on 11<sup>th</sup> March, 2014

**Hon'ble Mr. Navneet Kumar, Member-A**  
**Hon'ble Ms. Jayati Chandra, Member-J**

1. Krishna Kumar Yadav, S/o Sri Sohan Lal Yadav.
2. Jadmohan Prasad Verma, S/o Sri Chhotey Lal Verma.
3. Laxmi Narain, EDR.
4. Dharmendra Kumar, S/o Mahesh Prasad Yadav.
5. Radhey Shyam, S/o SriBasudeo Prasad.
6. Arvind Kumar, S/o Sri Sheo Balak Verma.
7. Ram Prem Gupta, ED Packer.
8. Rajendra Kumar Verma, S/o Sri Haridwar Prasad.

.....Applicant

By Advocate : Sri R.S. Gupta

Versus.

1. Union of India through the Secretary, of Posts, Dak Bhawan, New Dehli.
2. Chief PMG, U.P., Lucknow.
3. Sr. Superintendent of Post Offices, Lucknow Division, Lucknow.

.....Respondents.

By Advocate : Sri S.P. Singh

**ORDER**

**Per Ms. Jayati Chandra, Member-A**

The applicant has filed this O.A. under Section 19 of Administrative Tribunal Act, 1985 seeking the following relief(s):-

“(a) That this Hon'ble Tribunal may kindly be pleased to quash the orders dated 27.2.06 and 24.6.2004 as contained in annexure nos. 1A and 1B and direct the O.Ps to appoint the applicants from retrospective effect with all consequential service benefits including arrears of pay with interest @ 24% on all arrears.

(b) Any other relief deemed just & proper in the circumstances of the case with cost of the O.A.”

2. The facts of the case, as disclosed by the applicant, are that all the applicants were appointed as EDAs (GDS) in the departments and they have rendered their services for more than

*J. Chandra*

15 years. As per Recruitment Rules issued by Ministry of Communication, Department of Posts vide notification dated 30.1.1995 (Annexure-3). 25% of the vacancies in the cadre of Postman shall be filled from Extra Department Agent (now GDS) who have completed minimum 15 years service on the basis of seniority failing which from amongst EDAs on the basis of departmental examination. The case of the applicants are that they have rendered more than 15 years of service, hence were eligible for promotion against 25% seniority quota and yeawise vacancies were available (51 total from 1995 -2004), but they were not considered. The applicants have also preferred a representation for consideration for their case for promotion on 5.3.2006, but nothing has been heard. Meanwhile, by the impugned order dated 24.6.2004 13 persons and by D.O. dated 27.2.2002 11 persons have been appointed through departmental examination resulting in their supersession by their juniors.

3. The respondents have contested the claim of the applicant by filing a detailed Counter Reply. They have indicated that the appointment to postmans' cadre was made upto the year 1995 as per procedure prescribed under Department of Posts Recruitment Rules, 1989 as notified by notification no. 44-31/87/SPF-1 dated 6.8.1989. This notification was amended subsequently by notification no. 44-29/94/SPP-1 dated 30.1.1995. Through the amendment, 25% of vacancies of Postman were to be filled up from amongst EDAs on the basis of their seniority in service and subject to their passing departmental examination.

4. The department had filled up certain vacancies pertaining to the year 1994 as per the earlier notification of 1989. Subsequently, the vacancy position between the year 1995 to 2004 was 165. There was no vacancy in the year 1995 and no examination was held between 1999 to 2002, as such, these vacancies were lapsed. The details of the vacancies and the action taken is detailed as follows:-

Year	Total Vacancies	Depart. Quota	Outsider Quota	Remarks
1996	14	7	7	
1997	6	4	2	

*S. Chandra*

1998	49	24	25	
1999	22	11	11	Exam. Postponed
2000	8	4	4	-do-
2001	28	14	14	-do-
2002	8	4	4	-do-
2003	15	12	3	1 by exam. 2 by seniority
2004	15	15	-	
Total	165			

Further, they have stated that 50% quota for outsider, which is to be filled by EDAs/GDS. 25% by examination on merits and 25% on the basis of seniority of EDAs having minimum 15 years is based on the vacancies recommended by the screening committee. The examination conducted on 24.9.2006 was to fill up the vacancies under the departmental quota. As no vacancy was received for the outsider quota from CPMG, U.P. Circle, Lucknow hence, no promotion on the basis of seniority was made. The earlier status was informed to the applicants vide their letter dated 23.2.2007 in which the clarification given by them is reproduced below:-

*"It is also mentioned that during the year 2004 and 2005 no vacancy was allotted for outsider quota as such case for promotion under 25% seniority basis was not considered. Vacancies filled in by order dated 24.6.2004 and 27.2.2006 were filled in from the candidates who appeared in the examination conducted for the purpose according to their position in the merit.*

*As per recruitment procedure your case for promotion will be considered according to your seniority in gradation list of GDS candidates under 25% seniority quota as and when vacancies cleared by Screening Committee for filing of such post subject to the fulfillment of conditions and recommendation by DPC."*

5. The applicant has also filed Rejoinder Reply refuting the contentions made by the respondents in their Counter Reply and reiterating the stand taken in the Original Application.

*J. Chandra*

6. We have heard the learned counsel for the parties and have also perused the pleadings on record.

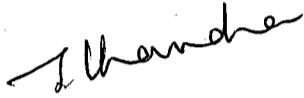
7. The main facts of the case are not denied by either of the parties. The claim of the applicants arises from the amendment made in the Recruitment Rules vide notification dated 30.1.1995. The specific provision relevant to this case is quoted below:

*“(b) against the posts of the postman/village postman, in column II, for the item 2 (i) the following shall be substituted, namely (i) 25% of the candidates of postman shall be filled up from amongst Extra Departmental Agents with a minimum of 15 years of service on the basis of their seniority, failing which by the Extra Departmental Agents on the basis of departmental examination.”*

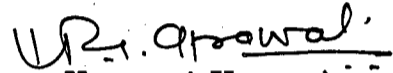
8. An examination of the vacancy position and the action taken to fill up the same as detailed in para 4 above reveals that upto 2002, there is clear distribution of vacancies with 50% going to departmental candidates and 50% going to outsider candidates. But suddenly in the year 2003 out of total 15 vacancies, 12 posts are reserved for departmental quota and only three were released for outsider quota, of which one is filled up on merit through examination and other two by seniority. In the year 2004, 15 vacancies are allotted to the departmental quota and none to the outsider quota. The respondents have not at all indicated their basis for not allotting any vacancy to the outsider quota when the notification dated 30.1.1995 it is clear that 50% of the vacancies is to be filled up from outsider quota, 25% of which would be filled up on the basis of seniority from amongst EDAs/ GDS having 15 years or more service. In the light of this, the impugned orders by which 11 and 13 candidates respectively have been selected is a clear violation of the vacancies distribution to 50% quota to be filled up from departmental candidates and 50% from amongst EDAs/GDS (25+25). The respondents have disclosed no ground for denying vacancies to the outsider quota beyond merely stating that the screening committee did not release appropriate vacancy. They have produced no order/rule etc. to demonstrate that the screening committee has been empowered to withhold the vacancies meant for outsider quota.

*J. Chandra*

9. In view of what has been stated above, the O.A. stands disposed of with a direction to the competent authority to release year-wise vacancy from 2003 for promotion under 25% quota meant for GDS employees through seniority. The respondents are further directed that upon release of vacancy, the applicants be considered for promotion against 25% quota in accordance with rules and orders on the subject. The aforesaid exercise shall be completed within a period of six months from the date of receipt of copy of this order. No costs.



**(Ms. Jayati Chandra)**  
**Member-A**

  
**Navneet Kumar)**  
**Member-J**

Girish/-