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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A.No. 494, 518 and 519 of 1992

Lucknow this the 24<sup>th</sup> day of January, 2001.

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

**O.A.No. 494/92**

Naumi Lal Yadav aged about 41 years son of Shri Khusi Ram resident of village and post Nasir Nagar, Barabanki.

Applicant.

versus

1. Union of India through the Secretary, Communication, Department of Post, Dak Bhawan, New Delhi.

2. The Chief Postmaster General, U.P. Circle, Lucknow.

The Director Postal Services, office of Chief Postmaster General, U.P. Circle, Lucknow.

3. Superintendent Post offices, barabanki.

Respondents.

**O.A.No. 518/92**

Sohan Lal aged about 36 years son of Sri Ram Avatar, resident of village and Post Nasir Nagar, Barabanki.

Applicant.

versus

Respondents 1 to 4 as in O.A. No. 494/92 above.

**O.A.No. 519/92**

Ambika Prasad Yadav aged about 43 years son of Shrikanhaiya lal, resident of village Siswara, Post Office Nasir Nagar, Barabanki.

Applicant.

versus

Respondents 1 to 4 as in the above two O.As

Advocate for applicant in all the O.As Shri Surendran P.

Advocate for respondents in all the O.As: Dr. D. Chandra.

**O R D E R**

BY D.C.VERMA, MEMBER(J)

As the facts and the relief claimed in all the three O.As are common, they have been heard together and are being decided by a common order.

2. In all the three O.As, the prayer is to declare the complete result of the departmental examination held on 18.8.91 for the post of Postman before the result of the fresh examination held on 13.9.92 is declared. The other relief is to appoint the applicant on the basis of the examination held on 18.8.91 against the existing vacancies in Lucknow Region. When the matter was taken up for interim relief, the Bench was informed on 1.10.92, that the result of the examination held on 13.9.92 had been declared, consequently, no interim relief was granted.

3. The brief facts, common to all, are that the applicants of O.A.No. 494/92 N.L. Yadav and of 519/92 A.R. Yadav were appointed as E.D.D.A. on 31.12.77 and Sohanlal, the applicant of O.A. No. 518/92 was appointed as E.D.D.A. on 20.1.77 in different Post Offices of District Barabanki. The Extra Departmental Delviery Agents(in short E.D.D.A.) come within the feeder cadre for appointment to the post of Postman. For vacancies in various/ Lucknow region, on the post of Postman, an examination was held at Lucknow on 18.8.91. Thereafter, the result of the Lucknow Division was declared and appointments were made. The result of Barabanki Division was not declared. When notification for second examination was issued on 6.3.92 (Annexure -1), the present applicants, who belong to Barabanki Division, filed the present O.As that the second appointment onthe basis of second examination could not be made unless the result of the previous examination is declared and the vacancies for which the previous examination are held, are not filled up.

4. The case of the respondents is well stated in the Counter Affidavit and is common in all the three O.As. It is stated under the heading "brief narrative of case" in Counter reply filed in O.A. No. 494/92 and is quoted below;

" In pursuance of D.T.E. letter No. 44-44/82-SPS-I dated 7.4.89, it was decided bythe C.P.M.G., U.P. Circle, Lucknow vide letter No. Rectt./PM/LW/Regn/91 /ldated 21.5.91 to hold an examination for promotion to the cadre of Postman/Village Postman on 18.8.91 (Annexure R-1) for filling up the vacancies of the

division, on which the Extra Departmental Agent was working and also to provide qualified candidates to such divisions/units of Lucknow region, there would be shortage of such qualified candidates. Barabanki is also a division of the Lucknow Region. Since there were no vacancies of the Postman/V.P.M. cadre in the year 1991, in Barabanki Division, it was clearly notified vide letter No. B-2/2 dated 30.5.91, while inviting applications from eligible candidates of E.D.A. Cadre, that in no case the qualified candidates will be absorbed in this Division, even if there may occur any vacancy just after the examination (Annexure R-2). Actually, the said examination in Barabanki Division, was to be held for providing candidates to other Division/Units where there the vacancies may remain unfilled due to shortage of qualified candidates. This examination was held on 18.8.91 on which 329 candidates including the petitioner appeared.

(ii) There was no vacancy in the examination year 1991 in Barabanki Division and on examination of and unfilled vacancy position in other divisions/units at Regional level by the C.P.M.G. U.P. Circle, Lucknow it was found that no vacancy remained unfilled in any other division/units for want of qualified candidates of those units/divisions. Since there was no surplus vacancy in any of the division of the region, it was not found feasible to announce the result of the examination for Barabanki Division. Accordingly the examination held on 18.8.91 was cancelled vide office notification dated 28.10.92 (Annexure R-2) in pursuance of the C.P.M.G. letter dated 21.10.92 (Annexure R-3)"

5. Heard the learned counsel for the parties and examined the documents on record. Para 4 of the circular from Director, Postal Services dated 21.5.91 (copy Annexure R-1 to the C.A.) is as below:

"...it has been decided to invite applications from the eligible EDAs of the Divisions/units also, where there are no vacancy, but it should be made clear to the candidates intending to appear in the examination that the qualified candidates will not be allotted their respective home divisions, even if vacancies unexpectedly arise, subsequent to the examination, during that year and they will be sent out to other divisions, where announced vacancies remains

unfilled. this will be done as per the combined merit list of all such surplus qualified candidates drawn up at Regional level, in accordance with the instructions issued by the Dte. dated 7.4.89 referred to above."

(emphasis laid)

It was thereafter that the Superintendent of Post Offices Barabanki notified for the examination vide his circular dated 30.5.91 (copy Annexure -2 to the O.A) informing thereby that the examination for the post of Postman would be held on 18.8.91. It was also mentioned in this circular that no post of Postman is vacant in the Barabanki Division, so the vacancy position is nil. However, on the basis of seniority, appointment may be made in the vacancy of Lucknow

*Barabanki Division.*

After the result of 18.8.91 was declared, all the vacancies in Lucknow Division were filled up. Consequently, the Department did not think it proper to declare the result of Barabanki Division as none of them could have been appointed in the Lucknow Division due to non availability of vacancy. The submission of the learned counsel for the applicant is that though the applicant had no claim against the notified vacancy in the Lucknow Division, the applicants have a claim against surplus posts of Lucknow G.P.O. which was filled up by the respondents vide their communication dated 29.7.92 (R.A. -2 to the Rejoinder). As per R.A.-2, 17 candidates who qualified in the examination held on 18.8.91, were sent for training for 10 days and were subsequently appointed. The claim of the applicant is that as per para 4 of Annexure R-1 to the C.A. (quoted above), a combined merit list of all such surplus qualified candidates was to be drawn up at Regional level for their adjustment to other Divisions. As the respondents failed to declare the result of Barabanki Division and also failed to prepare a combined merit list of surplus qualified candidates at regional level, the appointment of such surplus candidates, as per Annexure RA-2 is not valid.

7. After we have heard the learned counsel for the parties at great length, we are of the view that the submission of the learned counsel for the applicant has merit in all the three cases. The applicants in all the three cases belong to Barabanki Division and as the result of the Barabanki Division was not declared and a combined merit list of surplus qualified candidates was not drawn, the applicants have a genuine grievance of being denied justice. The department appointed 17 candidates by circular Annexure RA-2 dated 29.7.92, on the basis of the examination held on 18.8.91. The appointment of surplus candidates could have been made only on the basis of a combined merit list of surplus qualified candidates drawn up at regional level. If the result of Barabanki Division had been declared, a combined merit list had been prepared, the applicant could have obtained a fair chance of standing at a higher merit in comparison to 17 candidates who have been appointed by Annexure RA-2 dated 29.7.92. For appointment of surplus candidates it was incumbent on the part of the respondents to prepare a combined merit list at regional level and thereafter, to make appointment. It was in the knowledge of the applicants that there was no vacancy of Postman in the Barabanki Division. Still, about 329 candidates appeared in the examination only with a hope of being selected as a surplus candidate to other division.

8. The peculiar facts and circumstances of the present case are that the candidates of Lucknow division, as a result of the examination held on 18.8.91, have been appointed without declaring the result of Barabanki Division. As informed during the course of arguments, only the present O.As are, by the <sup>candidates</sup> ~~applicants~~ of Barabanki Division, for declaration of their result.

9. In the circumstances, the O.As are to be allowed to the extent that the result of the applicants of the three O.As would be declared by the respondents and their seniority

in order of merit vis-a-vis 17 surplus candidates who were appointed by Annexure RA-2 dated 29.7.92 will be notified to the present applicants. In case any of the applicants of the present O.As stand on a better merit in comparison to 17 candidats appointed vide Annexure RA-2 dated 29.7.92, only such of the applicant(s) would be appointed to the post of Postman after due training and would be given due seniority, w.e.f. the date their juniors were appointed, <sup>the</sup> ~~and if any~~ applicant(s) so appointed, would not be entitled to back wages. However, for fixation of their pay, increments due during the period would be taken into consideration. All the three O.As are allowed accordingly. Costs easy.

MEMBER(A)

Lucknow; Dated: 24.01.01

Shakeel/

MEMBER(J)

MEMBER (J)  
Shakeel/