

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 742/96

Date of Decision : 12th October 2000

M.D.Sawant & Ors. Applicant.

Shri S.P.Kulkarni Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri S.S.Karkera for Advocate for the
Shri P.M.Pradhan Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Smt. Shanta Shastri, Member (A)

- (i) To be referred to the Reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other *no*
Benches of the Tribunal ?
- (iii) Library *yes*

S.L.Jain
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.742/96

Dated this the 12th day of October 2000.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastri, Member (A)

1. Mahadev Dattaram Sawant
2. Pradeep Ramkrishna Rane
3. Khan Ashfaq Hussain Jawwad Hussain
4. Chandrakant Krishna Mahabadi
5. Anil Dattaram Chawan
6. Ashok Babi Parab

All are working as Postman,
Kalbadevi Post Office, Mumbai.

... Applicants

By Advocate Shri S.P.Kulkarni

V/S.

Union of India through

1. Chief Post Mast General,
Maharashtra Circle,
Old G.P.O. Building,
3rd Floor, Near C.S.T.
Central Railway,
Fort, Mumbai.
2. Chief Post Master,
Kalbadevi Head Post Office,
Near Dhobi Talao,
Mumbai.

... Respondents

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan

..2/-

P.L.G.N. —

ORDER

(Per : Shri S.L.Jain, Member (J))

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a declaration that letter dated 21.6.1996 denying permission to appear at the ensuing Examination to be held on 28.7.1996 on the ground of availment of 5 chances is arbitrary and discriminatory with a direction to the respondents to give effect to the amended Rule i.e. limiting chances to 5 prospectively to those who have attempted revised syllabus only.

2. The facts giving rise to this OA. ^h ~~are~~ that the applicants were recruited as Postman at Kalbadevi Head Post Office on the dates mentioned in para 4.1 of the OA., possessing the qualification mentioned against their names. The Recruitment Rules then in existence at the time of their appointment provided for a promotion to the clerical cadre through competitive Examination. The minimum qualification condition was relaxed (which was then S.S.C. and now XIIth pass) and not insisted upon. As per instructions then in force, there was no restriction in number of chances that could be availed by Lower grade officials for taking up Competitive Examination. (It may be called "Limited Departmental Competitive Examination" for 50% of vacancies, failing which by direct recruitment). It was open to all feeder grades such as Postmen Group 'D' consisting of

Pr. S. L. Jain

...3/-

Packer, Daftary, Gestetner Operator. The minimum Educational qualification for these lower grade cadres was VIIth and VIIIth passed respectively and as such for promotion to higher grade of Rs.975-1660, i.e. Postal Assistant, minimum Educational Qualification (then S.S.C.) now XIIth passed is not insisted upon. The Department of Posts, New Delhi decided to raise the Educational qualification for recruitment to the Cadre of Postal Assistant/Sorting Assistants vide Exh.'E-II' dated 20.4.1989, according to which the age limit was removed but chances to take up Competitive Examination were restricted to five. It is further clarified that the chances availed upto 1989 Examinations will be ignored. The Department of Posts also revised the syllabus of L.G.O. L.D.C.E. Examination for the Examination from the year 1992. As per revised syllabus, the pattern underwent change. The availment of chances was not restricted upto 1989 Examination. Though restriction was to avail as many number of chances upto 15 years of service commencing from the date after 5 years of service entry. The change brought by the respondents affects the service condition of the applicants. Hence, this OA. for the above stated relief.

3. The respondents have filed the written statement resisting the claim of the applicants to which a rejoinder is also filed.


Sumit

4. During the pendency of the OA., the applicants filed M.P.No.757/99 stating that the respondents have raised the number of chances from 5 to 6 and these orders are not declared to have prospective effect. The result is that they are to be held as applicable to the applicants.

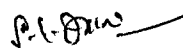
5. As interim relief, it was directed to allow the applicants to avail of one chance provisionally and not to declare their result. In compliance of the said order, the applicants had appeared at the Examination held on 28.7.1996.

6. M.P. is not opposed as there is change in the instructions issued by the respondents and in view of changed instructions, the applicants are entitled to avail six chances. In the circumstances, the applicants are entitled to avail the six chances. Those who had appeared in the examination held on 28.7.1996, their results so far not declared, can not be treated as sixth chance as the amendment came in existence on 20/26.8.1999 which is prospective.

7. With these directions that applicants are entitled to six chances for appearing in Limited Departmental Competitive Examination, the OA. and the M.P. stands disposed of. No order as to costs.


(SHANTA SHASTRY)

MEMBER (A)


(S.L.JAIN)

MEMBER (J)

mrj.