

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, MUMBAI.

Original Application No.568/1999

Dated this, the 18 th day of June, 2004

Shri Suresh W. Kedare ... Applicant
(Applicant by Shri S.P.Kulkarni, Advocate)

vs.

UOI and anr. ... Respondents
(Respondents by Shri. V.S.Masurkar, Advocate)

CORAM: HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN
HON'BLE SHRI S.G. DESHMUKH, MEMBER (J)

(1) To be referred to the Reporter or not ? *M*
(2) Whether it needs to be circulated to No
other Benches of the Tribunal?
(3) Library. *Ys*

W
(S.G. Deshmukh)
Member (J)

Sj*

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CORAM: HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN
HON'BLE SHRI S.G. DESHMUKH, MEMBER (J)

Shri Suresh Waman Kedare,
Son of Shri Waman Kedare,
Age: Adult, Working as Postman
(T.B.O.P), Borivali (W),
Post Office, Mumbai 400 092.

Residing at: C-9, Radha Complex
Goddeo New Ghodbunder Road,
Bhayander (East), 400 105.
Dist. Thane.

... Applicant

(Applicant by Shri S.P.Kulkarni, Advocate)

vs.

1. Union of India through
Chief Post Master General
Maharashtra Circle,
Old G.P.O. Building, Fort,
Mumbai 400 001.
2. Senior Superintendent of Post
Offices, North West Division,
Borivali P.O.
At Mumbai 400 091.

.... Respondents

(Respondents by Shri V.S. Masurkar, Advocate)

O R D E R

[Per: S.G. Deshmukh, Member (J)]

The present O.A. is filed for declaration that the applicant is eligible and fit to be declared in the Review Result of Examination dated 28.7.1996 with all consequential benefits.

2. The applicant's case is that he was recruited as a Postman in the year 1981 against the Schedule Caste point/quota. He has passed S.Y.B.A. Exam. and has further appeared for B.A. in 1985. It is contended that as per Scheme for avenues of promotion for Lower Grade Staff i.e. Postmen and Group 'D' staff etc. there is a Departmental quota known as Limited Departmental

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WV *Vb*

Competitive Examination (LDCE), whereby those having better performance and Educational excellence can compete for promotion as Postal Assistant. The chances are however, limited to five in the entire service. The applicant could not come on merit in all these five chances and the last examinations taken by him was the last on 28.07.1996.

3. It is further contended that there is further liberalisation of S.C. & S.T. Those failed in the Examination can be declared as Selected by taking up a Review of the result and the procedure for the same is as per rulings contained in Annexure 14 and Annexure 13 read with Exh. A.11. It is contended that the applicant having secured more than 20 marks in each of the papers was perfectly eligible to be declared as selected. He has a strong doubt as to how he was dropped from the Select List (2nd Review) dated 3.2.1998. The applicant has every reason to believe that due to some extraneous consideration or adjustment of Reserve point by bringing Departmental promotee by outside Mumbai Region, his name was dropped from the said list. It is contended that on an earlier occasion of Review of results for inducting failed S.C./S.T. candidates, the respondents had empaneled 47 Scheduled Caste and 27 Schedule Tribe Candidates vide letter dated 27.1.1997 as against 72 Postal Unit vide declaration of vacancies on 26.07.1996. It is contended that in the result declared vide letter dated 4.12.1996 very few appeared to have been selected against Reserve quota for Scheduled Caste. The above leaves at least 13 Schedule Caste points yet to be filled in for the aforesaid quota even after taking into account surplus candidates declared successful from the aforesaid examination. It is also contended that 1995 quota were not adjusted by the respondents as well as not carried

forward to the subsequent year 1996. There were 62 SC points for 1995 and the result of 1995 Examination shows filling of 24 Scheduled Caste point only. There appeared no Review of Result of 1995. It is also contended that there was some inadvertence or erroneous concept being following by the Respondents. It is contended that the 1996 Examination covering SC points up to that year were to be adjusted as per Special Roster then on record.

4. The respondents appeared and resisted the claim by filing their counter affidavit. The respondents contended that for filling up the vacancies of Department quota of 1996, a notification was issued by this office on 8.4.1996 notifying that the examination would be conducted on 28.07.1996 and accordingly it was conducted. The result of the above examination was declared by the office on 4.12.1996. A total of 225 candidates including surplus were declared qualified with 14 SC and 4 ST candidates. All the 14 SC candidates qualified from Postal Unit and no candidate of SC category of Postal Unit remained unfilled. After recalculation of vacancies and deducting the surplus qualified candidates of SC Category, 47 vacancies of SC category remained unfilled.

5. It is also contended that the result of failed SC/ST candidates who fail in the Deptt. competitive examinations even on the basis of relaxed standards requires to be reviewed by granting grace marks and the result of failed SC/ST candidates as reviewed by a Committee consisting of Chief Postmaster General Maharashtra Circle and the Postmaster General, Mumbai Region. The merit lists of such candidates were prepared categorywise viz. SC and ST. In the merit list of SC candidates, applicant was at S1.No.61 and since only 47 vacancies were available first 46 candidates of SC category merit list were selected and review

result was announced accordingly. It is contended that in the instant case, passing standard for SC/ST candidates is 33. The competitive examination consists of three papers of 100 marks each and the SC/ST candidates have to secure minimum 33 marks for qualifying. The applicant secured 21 marks in Paper I, 20 marks in Paper II and 23 marks in Paper III in the examination held on 28.6.1996. As such the applicant could not qualify in this examination. After declaring the result of qualified candidates belonging to SC Category by securing 33 marks in each paper, as per prevailing rulings a review of the candidates belonging to SC Category including ST Candidates also for unfilled vacancies of ST Category was taken and a merit list of such review candidates was prepared. Maximum of 16 grace marks were given to the applicant in each paper so that he could reach $64 + 48 = 112$ marks. There were only 47 vacancies for SC category, first 47 candidates of the merit list were appointed against the available 47 vacancies and since the applicant was at Sr. No.61 in the merit list, he was not promoted to PA Cadre. It is contended that the review of the result of not qualified SC/ST candidates is taken as per the rules on the subject and the result is declared accordingly. In the absence of minimum qualifying standards, no result can be reviewed. It is also contended that no second review was taken, but the five candidates belonging to SC Category who were left behind while declaring the result of review inadvertently, were declared qualified. The rest of the contentions of the applicants are denied.

6. The applicant did not file the rejoinder denying the averments of the respondents in the reply.

7. Heard the learned counsel for the applicant Shri S.P.Kulkarni, and Shri V.S.Masurkar for the respondents.

8. We have perused the records produced by the respondents.

9. It is apparent from the affidavit filed by the respondents that the passing standard for SC/ST candidate was 33. The applicant had secured 21 marks in Paper I and 20 Marks in Paper II and 23 Marks in Paper III as such he could not qualify in the examination. It is apparent that the result of examination was declared on 4.12.1996. 225 candidates including the surplus were declared qualified with 14 SC and 4 ST candidates and all the 14 SC candidates were from Postal Wing. The respondents also mention in their Affidavit that after recalculation of vacancies taking the surplus qualified candidates of SC category 47 vacancies of SC category remain unfilled. It is also apparent that after declaring the result of qualified candidates belonging to SC category in each paper, the review of the candidates belonging to SC/ST category was taken. It is also apparent that maximum 16 grace marks were given to applicant in each paper. Since there were only 47 vacancies for SC category first 47 candidates were of SC category appointed against the available vacancies. The applicant was at Sr.No.61. The vacancies for SC candidates who had secured more marks were appointed in the vacancies as the applicant was at Sr.No.61, he was not promoted to PA Cadre. The second review was not conducted. The applicant has not controverted the averments made by the respondents in their counter Affidavit. Hence the O.A. is devoid of any merits. Accordingly, the same is dismissed. No order as to costs.

M.G.Deshmukh
(S.G. Deshmukh)
Member (J)

V.K.Majotra
(V.K.Majotra)
Vice Chairman 16.6.04

sj*