

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHCommercial Complex(BDA),
Indiranagar,
Bangalore-560038.

Dated: [7 MAY 1987

Application Nos. 77, 130 to 182, 225 to 236and 241 to 249 of 1987(F)

Applicant

Respondents

National Union of EDAs & Ors Vs PMG, Bangalore & Ors

To

1. National Union of EDAs
Karnataka Circle Branch
Kolar Division by its
Divisional Secretary.
2. A.V.Venkateshappa,
S/o Turai Muniyappa,
E.D.Messenger,
Devanahalli.
3. B.Shivashankar,
S/o N.Basappa,
BPM, Husamanahalli
Bettahalsoor.
4. Ramanna,
S/o Ramaiah,
BPM, Chick Jala,
Bettahalsoor.
5. C.K.Muni Raju,
S/o Kammappa,
E.D.D.A.,
Chick jala,
Bettahalsoor.
6. K.T.Nagaraja,
S/o Thirumalappa,
EDDA, D.Gubbi,
Bangalore S.O.
7. K.Chandrashekaraiah,
S/o Kodappa,
EDDA/DP Uganavadi,
Devanahalli.
8. Ramachandraiah,
S/o Thirumalappa,
EDDA, D.Gubbi,
Bangalore S.O.
9. Muniyappa,
S/o B.Narayananappa,
EDMC/DP Uganavadi,
Devanahalli.
10. S.Nagabhushana,
S/o R.Surya Ilayana,
BPM, Dodda a,
Devanahalli.
11. R.Balaraju,
S/o K.Ramaiah,
BPM Venkatiogerikote,
Devanahalli.
12. A.Narayaswamy,
S/o Adappa, EDDA,
Koira Devanahalli.
13. A.Krishnamurthi,
S/o C.S.Aswathanarayana Rao,
BPM, Yelour Devanahalli.
14. Ramaiah,
S/o Doda Muniswamappa,
EDDA, Viswanathapura,
Devanahalli.
15. S.Nagaraj,
S/o Srinivasaiah,
BPM, Karahalli,
Devenahalli.

John
File No 2478
A no 29/1/87
2

16. S.N.Srinivasa,
S/o C.Narayanappa,
EDDA, Sulebala SO.
17. S. Aswathnarayana,
S/o Sriramaiah,
EDIC, Bendagonahalli,
Sulebala.
18. A. Venkataswa Murthy,
S/o Appanna, BPM,
Bendagonahalli,
Sulebala.
19. B.N.Mininarayana,
S/o Basappa,
EDDA, Bendaganahalli,
Sulebala.
20. N.Krishnappa,
S/o Narayanappa,
BPM, Nelavagalu BO,
Nandagudi.
21. N.Chandra Charey,
S/o Narayana Charey,
EDDA, Nandagudi.
22. R.Basuraj,
S/o Basappa,
BPM, Korati B.C.
Nandagudi.
23. K.Puttaiyah,
S/o Narasappa,
EDDA, Bylanarasapura,
Nandagudi.
24. M.V.Srinivasa,
S/o Venkata Narasappa,
EDDA, Bylenarasapura,
Nandagudi.
25. B.C.Venkatachalapati,
Chick Narayanappa,
BPM, Begaur,
Nandagudi.
26. D.Rajanna,
S/o Dyavanna,
BPM, Hindiganala,
Nandigudi.
27. N.R.Nagaraja,
S/o N.R.Raghavendra Rao,
EDMC, Nandagudi.
28. M.Venkatesha,
S/o Munishamappa,
EDDA, Begaur,
Nandigudi.
29. C.Rahamathulla,
S/o Chiamasab,
EDMC, Bibichodri.
30. R.S.Holhur,
S/o Srinivasac ar,
ED Packer,
B.S.Factory.
31. B.Virupakshappa,
S/o Dungappa,
EDDA, B.S.Factory.
32. M.D.Munavar,
S/o Abdul Watics Sab,
ED Packer,
Modi Circle, Duej.
33. B.M.Parameswarappa,
S/o Parameswarappa,
EDMC, Alibettur BO.
34. V.Veerabhadrapappa,
S/o Veerappa,
EDIC, Chick Jala.
35. G.Neelappa,
S/o Guddappa,
BPM, Hire He igowr,
Chickjala.
36. G.Krishnappa,
BPM, Gwodhihalli.
37. P.V.Jagadish,
S/o Veerashadupi,
ED Packer,
B.N.Durg.
38. R.R.Prakash,
S/o R.Rudrappa,
EDDA, B.N.Durg.

39. T.B.Munigeadriah,
S/o Basavaiah,
BPM, Jalakatla,
Ramagiri SO.

40. V.K.Shirolkar,
S/o H.Shirolkar,
Haveri.

41. D.M.Venkateshappa,
S/o M.Muniappa.

42. K.Arunachalam,
S/o K.Seetharaaiah,
EDMC, Gauribidanur.

43. N.S.Sathyanarayana Rao,
S/o M.Srinivasa Rao,
EDDA/EDMC, Naramaddepalli,
A/W Pathapalya.

44. P.R.Mahadevan,
S/o Ramachandra Sastry PR,
EDP/DP, Pathapalya,

45. Lakshminarasimha Murthy,
S/o Narasimha Murthy,
Branch Post Master,
Gulur, A/W. BPL.

46. G.N.Lakshmi Narayana,
S/o G.S.Narayana Rao,
EDDA, Gular, A/W, Bagepalli.

47. A. Adinarayanappa,
S/o Sreekantappa,
EDDA/EDMC, Somanathapura,
A/W. Pathapalya.

48. S Srinath,
S/o H.V.Narayana,
BPM, Kothakatte BPO.

49. C.S.Gopal, BPM,
Bagepalli.

50. M.Ramaswamy,
ED Chowkidar,
Chickbalapur HO.

51. H.N.Shevappa,
EDDA/MC,
Hosahandya.

52. G.C.Jeenarajaiah,
ED Packer,
Gudibanda.

53. C.M.Narayana Rao,
BPM, Cholasettyhalli.

54. R.V.Ramaraao,
EDMC, Ramapatna,
Gudibanda.

55. R.D.Laxman Rao,

56. H.S.Pujari.

57. B.H.Navalli.

58. C.G.Kumadad.

59. R.K.Basana Gowdar.

60. D.Shashachala.

61. K.B.Angadi.

62. Bharamappa.

63. J.Budamannavar.

64. A.G.Kulkarni.

65. Chidambara Murthy.

66. Channaverapra.

67. P.H.Kadakol.

68. B.A.Naik.

69. P.N.Kulkarni.

70. S.C.Vijapur.

71. M.R.Talagur.

72. G.G.Dixati.

73. S.N.Ganesh Gudi.

74. S.M.Kshavarad.

75. R.H.Purohit.

Applicants from Sl.No 55
to 75 are working as EDA's
in various Division of
Karnataka Circle.

76. Post Master General,
in Karnataka,
Karnataka Circle,
Bangalore-1.

77. Director of Postal Services,
Bangalore Region,
Bangalore.

78. Senior Superintendent of
Post Offices,
Kolar Division,
Kolar.

79. Senior Superintendent of
Post Offices,
South Division,
Bangalore.

80. Senior Superintendent of
Post Offices,
West Division,
Bangalore.

81. M. Raghavendrachar,
Advocate,
No.1074-1075,
1st Stage B.S.K.
Mysore Bank Colony,
Opp.Raghavendra Nursing Home,
Main Cross Sub Cross,
Bangalore.

82. M. Vasudeva Rao,
Central Govt. Standing Counsel,
High Court Buildings,
Bangalore.

83. C.R.Patil, Advocate,
1272, III Main V Cross,
Bangalore-21.

Subject: Sending copies of Order passed by the
Tribunal in Application No. 77, 180 to 182,
225 to 230 and 241 to 249 of 1987.

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
11.4.1987.

ENCL: As above.

[Signature]
SECTION OFFICER
(Judicial)

CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE
DATED THIS THE 11TH DAY OF APRIL, 1987.

Hon'ble Shri Justice K.S. Puttaswamy, (Vice-Chairman)

Present :

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Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NOS. 77, 130 TO 182, 225 TO 236
AND 241 TO 249 OF 1987

1. National Union of EDAs
Karnataka Circle Branch
Kolar Division by its
Divisional Secretary
Applicant in
A. No.77/87.
2. A.V. Venkateshappa,
S/o, Murai Muniyappa,
E.D. Messenger,
Devanahalli.
Applicant in
A. No.130/87.
3. B. Shivashankar,
S/o. N. Basappa
BPM, Husamanahalli
Bettahalsoor.
Applicant in
A. No.131/87.
4. Rammanna,
S/o. Sri Ramaiah,
BPM, Chick Jala
Bettahalsoor
Applicant in
A. No.132/87.
5. C.K. Muni Raju,
S/o. Kammappa,
E.D.D.A.
Chick Jala,
Bettahalsoor.
Applicant in
A. No.133/87.
6. K.T. Nagaraja,
S/o. Thirumalappa,
EDDA, D. Gubbi,
Bangalore S.O.
Applicant in
A. No.134/87.
7. K. Chandrashekaraiah,
S/o. Kodappa,
EDDA/DP Uganavadi,
Devanahalli.
Applicant in
A. No.135/87.
8. Ramachandraiah,
S/o. Thirumalappa,
EDDA, D. Gubbi,
Bangalore S.O.
Applicant in
A. No.136/87.
9. Muniyappa,
S/o. B. Narayanappa,
EDMC/DP Uganavadi,
Devanahalli.
Applicant in
A. No.137/87.

10. S. Nagabhushana,
S/o. K. Suryanarayana,
BPM, Dodasana,
Devanahalli. Applicant in
A. No. 38/87.
11. R. Balaraja,
S/o. K. Ramaiah,
BPM Venkatrogerkote
Devanahalli. Applicant in
A. No. 139/87.
12. A. Narayanaswamy,
S/o. Adappa, EDDA,
Koira Devanahalli. Applicant in
A. No. 140/87.
13. A. Krishnamurthi
S/o. C.S. Aswathanarayana Rao,
BPM, Yelour Devanahalli. Applicant in
A. No. 141/87.
14. Ramaiah,
S/o. Doda Muniswamappa,
EDDA, Viswanathpura,
Devanahalli. Applicant in
A. No. 142/87.
15. S. Nagaraj,
S/o. Srinavasaiah,
BPM, Karahalli,
Devanahalli. Applicant in
A. No. 143/87.
16. S.N. Srinivasa,
S/o. C. Narayanappa,
EDDA, Sulebala SO. Applicant in
A. No. 144/87.
17. S. Aswathanarayana,
S/o. Sriramaiah,
EDMC, Bendagonahalli,
Sulebala. Applicant in
A. No. 145/87.
18. A. Venkataswa Murthy,
S/o. Appanna, BPM,
Bendagonahalli,
Sulebala. Applicant in
A. No. 146/87.
19. B.N. Muninarayana,
S/o. Basappa,
EDDA, Bendaganahalli,
Sulebala. Applicant in
A. No. 147/87.
20. N. Krishnappa,
S/o. Narayanappa,
BPM, Nelavagalu BO
Nandagudi. Applicant in
A. No. 148/87.

21. N. Chandra Charey,
S/o. Narayana Charey,
EDDA, Nandagudi. Applicant in
A. No.149/87.

22. R. Basuraj,
S/o. Ramappa,
BPM, Korati B.O.
Nandagudi. Applicant in
A. No.150/87.

23. K.N. Puttaiah,
S/o. Narasappa,
EDDA, Bylanarasapura,
Nandagudi. Applicant in
A. No. 151/87.

24. M.V. Srinivasa,
S/o. Venkatanarasappa,
EDDA, Bylanarasapura,
Nandagudi. Applicant in
A. No.152/87.

25. B.C. Venkatachalampati,
Chick Narayana,app,
BPM, Begaur,
Nandagudi. Applicant in
A. No.153/87.

26. D. Rajanna,
S/o. Dyavanna,
BPM, Hindiganala,
Nandigudi. Applicant in
A. No.154/87.

27. N.R. Nagaraja,
S/o. N.R. Raghavendra Rao,
EDMC, Nandagudi. Applicant in
A. No.155/87.

28. M. Venkatesha,
S/o. Munishamappa,
EDDA, Begaur,
Nandigudi. Applicant in
A. No.156/87.

29. C. Rahamathulla,
S/o. Chiamasab,
EDMC, Bibichodri. Applicant in
A. No.157/87.

30. R.S. Holhur,
S/o. Srinivasachar,
ED Packer,
B.S. Factory. Applicant in
A. No.158/87.

31. B. Virupakshappa,
S/o. Dungappa,
EDDA, BS Factory. Applicant in
A. No.159/87.

32. Md. Munavar,
S/o. Abdul Watics Sab,
ED Packer,
Modi Circle, Duej. Applicant in
A. No.160/87.

33. B.M. Parameswarappa, S/o. Marulappi, EDDA, Yelebettur 80.	Applicant in A. No.161/87.
34. V. Veerabhadrappa, S/o. Veerappa, EDMC, Chick Jala.	Applicant in A. No.162/87.
35. G. Neelappa, S/o. Guddappa, BPM, Hire Hemigowr Chickjala.	Applicant in A. No.163/87.
36. G. Krishnappa, BPM, Gwodihalli.	Applicant in A. No.164/87.
37. P.V. Jagadesh, S/o. Veerashadupi, ED Packer, B.N. Durg	Applicant in A. No.165/87.
38. R.R. Prakash, S/o. P. Rudrappa, EDDA, B.N. Durg.	Applicant in A. No.166/87.
39. T.B. Munigeadriah, S/o. Basaviah, B.P.M. Jalakatla, Ramagiri SO.	Applicant in A. No.167/87.
40. V.K. Shirolkar, S/o. H. Shirolkar, Haveri.	Applicant in A. No.168/87.
41. D.M. Venkateshappa, S/o. M. Muniappa.	Applicant in A. No.169/87.
42. K. Arunachalam, S/o. K. Seetharamaiah, EDMC, Gauribidanur.	Applicant in A. No.170/87.
43. N.S. Sathyanarayana Rao, S/o. M. Srinivasa Rao, EDDA/EDMC, Naramaddepalli, A/W. Pathapalya.	Applicant in A. No.171/87.
44. P.R. Mahadevan, S/o. Ramachandra Sastry PR, EDP/DP, Pathapalya.	Applicant in A. No.172/87.
45. Lakshminarasimha Murthy, S/o. Narasimha Murthy, Branch Post Master, Gulur, A/W. BPL.	Applicant in A. No.173/87.

46. G.N. Lakshmi Narayana, S/o. G.S. Narayana Rao, EDDA, Gulur, A/W, Bagepalli.	Applicant in A. No.174/87.
47. A. Adinarayanappa, S/o. Sreekantappa, EDDA/EDMC, Somanathapura, A/W. Pathapalya.	Applicant in A. No.175/87.
48. Srinath, S/o. H.V. Narayana, BPM, Kothakatte BPO.	Applicant in A. No.176/87.
49. C.S. Gopal, BPM, Bagepalli.	Applicant in A. No.177/87.
50. M. Ramaswamy, ED Chowkidar, Chickbalapur HO.	Applicant in A. No.178/87.
51. H.N. Shivappa, EDDA/MC, Hosahandy.	Applicant in A. No.179/87.
52. G.C. Jeenarajaiah, ED Packer, Gudibanda.	Applicant in A. No.180/87.
53. C.M. Narayana Rao, BPM, Cholasettyhalli.	Applicant in A. No.181/87.
54. R.V. Ramarao, Applicant in EDMC, Ramapatna, A. No.182/87. Gudibanda.	Applicant in A. No.182/87.
55. R.D. Laxman Rao.	Applicant in A. No.183/87.
56. H.S. Pujari.	Applicant in A. No.184/87.
57. B.H. Navalli.	Applicant in A. No.185/87.
58. C.G. Kumadad.	Applicant in A. No.186/87.
59. R.K. Basana Gowdar.	Applicant in A. No.187/87.
60. D. Sheshachala.	Applicant in A. No.188/87.
61. K.B. Angadi.	Applicant in A. No.189/87.
62. Bharamappa.	Applicant in A. No.190/87.
63. J. Budamannavar.	Applicant in A. No.191/87.
64. A.G. Kulakarni. Applicant in A.No.234/87	Applicant in A.No.234/87
65. Chidambara Murthy. Applicant in A. No.235/87.	Applicant in A. No.235/87
66. Channaveerappa. Applicant in A. No.236/87.	Applicants from Sl. No.55 to 66 are working as EDAs in various divisions of Karnataka Circle Bangalore.

57. P.H. Kadakol.	Applicant in A. No.241/87.
68. B.A. Naik.	Applicant in A. No.242/87.
69. P.N. Kulkarni.	Applicant in A. No.243/87.
70. S.C. Vijapur.	Applicant in A. No.244/87.
71. M.R. Talagur.	Applicant in A. No.245/87.
72. G.G. Dixati.	Applicant in A. No.246/87.
73. S.N. Ganesh gudi.	Applicant in A. No.247/87.
74. S.M. Kshavarad.	Applicant in A. No.248/87.
75. R.H. Purohit.	Applicant in A. No.249/87.
	Applicants from Sl. No.67 to 75 are working as EDA's in various Division of Karnataka Circle.

(Shri M. Raghavendrachar, Advocate)

v.

1. Post Master General
in Karnataka,
Karnataka Circle,
Bangalore-1. Common Respondent
in all the applications.
2. Director of Postal Services,
Bangalore Region,
Bangalore. II Respondent in A.No.77/87.
3. Senior Superintendent of
Post Offices,
Kolar Division,
Kolar. III Respondent in A.No.77/87.

4. Senior Superintendent of
Post Offices,
South Division,
Bangalore.

IV Respondent in A.No.77/87.

5. Senior Superintendent of
Post Offices,
West Division,
Bangalore.

V Respondent in A.No.77/87.

(Shri M. Vasudeva Rao, Addl. CGSC)

(Shri C.R. Patil, Advocate for
impleading Respondent)

(Shri M.S. Nagaraj, Advocate
for impleading Respondent)

These applications having come up for hearing
today, Vice-Chairman made the following.

O R D E R

As the questions that arise for determination in
these cases are common, we propose to dispose of them
by a common order.

2. National Union of EDAs, Karnataka Circle Branch,
Kolar Division ('Union') is the applicant in Application
No.77 of 1987. This union is interested in espousing
the cause of EDAs working in the Circle. In all other
cases the applicants are individuals who are all working
as Extra-Departmental Agents ('EDAs) at one or the other
place of Karnataka Postal Circle ('Circle'). In all
these cases, the Post Master General of Karnataka Circle
('PMG') and some of his subordinates are impleaded as



respondents. In some of them, another union called All India Postal Employees Union, Class II including EDAs ('AIPEU) and one Sri D.K. Srinivasachary working as an EDA in the City of Bangalore have intervened and supported the PMG.

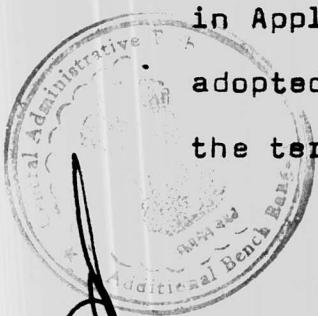
3. The recruitment and conditions of service of EDAs are regulated by Posts and Telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964 (EDAs Rules). The EDAs appointed and working under these Rules are part time employees drawing a fixed remuneration.

4. Among the various categories of posts in the Postal Department there are posts of Postmen, Village Postmen and Mailguards, which are classified as Class -III Posts, the recruitment to which are regulated by the Indian Posts and Telegraphs (Postmen Mailguards) Recruitment Rules, 1969 (1969 Rules') framed by the President of India under the proviso to Article 309 of the Constitution. These Rules have come into force on 6.8.1969 on which day they were published in the official Gazette of India. These are regular posts and carry regular time scales of pay and has further avenues of promotions also. For these posts, the EDAs can also be made eligible for direct recruitment. For recruitment to these posts Government of India or the Director General of Posts (DGP) who is the head of

department have now and then issued instructions to some of which, we will refer in some detail at a later stage.

5. The Karnataka Circle, that exercises jurisdiction over the State of Karnataka is divided into Divisions and sub-divisions approximately corresponding to revenue Districts and revenue sub-divisions of the state. The City of Bangalore is divided into four divisions called Bangalore East, Bangalore West, Bangalore South and Bangalore GPO.

6. In August, 1986, the PMG found that there were 410 vacancies of postmen in the various divisions of his circle and decided to fill up all those vacancies. In conformity with the same in his letter No.R&E/1-23/Rlgs II dated 18.8.1986 the PMG directed his subordinates to fill up the vacant posts in their respective divisions. In pursuance of the same the Senior Superintendent of Post Offices of the divisions (SSPO) as heads of their divisions initiated necessary steps to fill up the vacant posts of their divisions. In his communication No.B-3/25/86-87 dated 25.8.1986 the SSPO Bangalore West, (Annexure-B in Application No.77 of 1987) which is also the form adopted by the SSPOs of other divisions, had set out the terms and conditions to fill up the vacant posts



of postmen in his division and in pursuance of the same and the instructions issued thereto from time to time, a certain ratio of EDAs working in the Divisions were permitted to appear to the examination scheduled to be held on 21.12.1986. But that examination was not held on 21.12.1986 and was successively postponed to 18.1.1987, 25.1.1987 and 15.3.1987, which however were pre-poned to 15.2.1987 and were held on that day. All the divisions except, Kolar division, have declared the results of examination held on 15.2.1987. Appointments have also been made in some divisions and not in all divisions.

7. In these applications made on different dates, the Union and the EDAs have approached this Tribunal under section 9 of the Administrative Tribunals Act, 1985 ('Act') inter-alia seeking for these reliefs:

"

- (i) Issue direction to the Respondent to hold fresh examinations for the cadre of postmen in Karnataka Circle to the applicants and other EDAs;
- (ii) Issue direction to fill up the post of Postman on Circle basis and take into account of the entire vacancies in the Karnataka Circle;

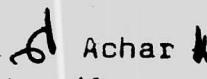


(iii) Issue direction to the Respondent to set the question papers in the regional language; and

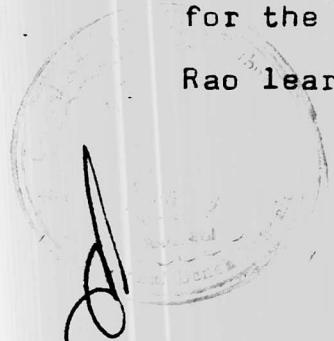
(iv) Issue such other directions as deem fit in the circumstances of the case."

Among others, the applicants have urged that the posts of postman exclusively ear-marked for direct recruitment under the 1969 Rules have been illegally converted into promotional posts and all steps undertaken by all the authorities to fill them on that basis were illegal and impermissible. Hence the applicants have sought for annulling all the steps taken so far and for appropriate directions thereto to call for applications, hold fresh examinations and make recruitment in conformity with the 1969 Rules.

8. In their common reply, the respondents have asserted that the posts, are promotional posts to be filled only by the inservice EDAs and all steps taken to so fill them were in conformity with the instructions issued by Government and the DGP from time to time were legal and valid.

 Achar

9.. Sri M. Raghavendra, learned Advocate has appeared for the applicants in all these cases. Sri M. Vasudeva Rao learned Addl. Central Government Standing Counsel



8. Period of probation if any

a) Two years
b) - do -

9) Method of recruitment whether by direct recruitment or by promotion or transfer and percentages of vacancies to be filled by various methods.

a) 50% by direct recruitment
50% by promotion failing which by direct recruitment.
b) 25% by direct recruitment
75% by promotion failing which by direct recruitment.

10) In case of recruitment by promotion transfer grades from which promotion to be made.

a) Permanent/Quasi permanent Class IV officials who qualify in a departmental test.
b) - do -

11) If a D.P.C. exists what is its composition

a) Not applicable
b) - do -

13) Circumstances in which U.P.S.C. is to be consulted in making recruitment.

a) Not applicable
- do -

Note: 1. Bonus marks for sports or other qualifications, experience of the Posts and Telegraphs work and for cycling may be granted to boths departmental and outside candidates in such manner or subject to such conditions as may be decided by the Govt. from time to time.

2. 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. "

Rule 5 dealing with the disqualifications are not material for our purpose. Rule 6 of the Rules confers power on



Government to relax any of the Rules in respect of any class of persons or category of persons or posts for reasons to be recorded in writing. Firstly Govt. had not exercised the power conferred on it by this Rule and therefore it is un-necessary to ascertain its true scope and ambit at all. Secondly the true scope and ambit of this Rule does not bear on the present question that arises for our determination. Rule 7 that provides for savings are not material for our purpose. Col. No.9 of the schedule, stipulates a quota between direct recruitment and promotions at 50% to each of the two categories, 50% of the posts of postmen are earmarked for direct recruitment and the other 50% are earmarked for promotion, failing which by direct recruitment. In the latter category there can be direct recruitment also if there cannot be promotions and not otherwise. This requirement is imperative and must be adhered to in filling up the posts or making recruitment.

13. Note of the Schedule empowers the Director General of Posts and Telegraphs (DGPT) to specify the conditions and the manner in which the EDAs be made eligible for direct recruitment. This note or other provisions of the Rules, do not provide for promotion of EDAs to the posts of postmen. On the other hand only permanent and quasi permanent Class-IV



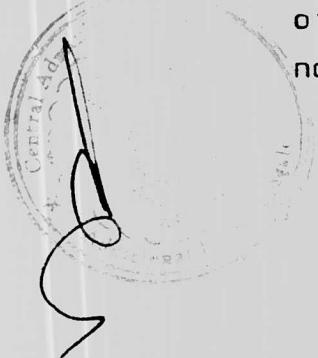
officials who qualify in a departmental test are eligible for promotion against the quota of 50% specified for promotion. Every one of the amendments made to the Rules have not altered this basic position and have not provided for promotion of EDAs to the posts of postmen. The power conferred by Note 2 on the DGPT cannot be exercised to alter the character of recruitment to the posts of postmen or even the quotas fixed to the two sources also.

14. We have earlier noticed the decision of the PMG, and the follow up communications addressed by the superintendents of the divisions and had also set out in extenso one of them. In all those communications the authorities without an iota of doubt have proceeded as if they were promotional posts exclusively earmarked for inservice EDAs. In the question papers also it is so stated. This is also the stand of the respondents in their reply and Shri Rao also stuck to the same; before us at the hearing. For this the respondents rely on the circulars issued by Government and the DGPT from time to time and one of them was letter No.47-5/79-SPB.1 dated 20.3.1979 written by the DGPT and the same reads thus:



" 4. Recruitment to cadre of Postmen.

At present, extra departmental agents with more than 3 years of E.D. service and who are below 40 years of age (45 years for SC/ST) are eligible to appear for examination for appointment to the cadre of Postmen and village postmen. They are appointed against the quota reserved for outside candidates but they take the examination prescribed for departmental candidates. The qualifying marks in the examination in each paper are 50%. If the number of qualified E.D. Agents is more than the number of vacancies for outside candidates, they are selected in the order of merit in the examination upto the number of vacancies. No waiting list is maintained. The present practice results in ED agents with lesser ED service securing more marks in the examination securing employment as Postmen whereas Senior qualified ED agents, who secure lesser number of marks do not get an appointment as Postmen. It has, therefore, been decided that when the number of qualified ED agents in the examination exceeds the number of vacancies reserved for outsiders they will be brought on the approved list according to the total length of service as ED agents upto the number of vacancies. No waiting list will be maintained. The same criterion will apply in respect of the remaining 50% quota reserved for departmental candidates. When the number of departmental officials who obtain qualifying marks does not exceed 50% of the vacancies., then all



such candidates will be selected. If it exceeds this limit, these candidates will be selected in order of seniority in class IV cadre upto the number of vacancies."

In his later communication No.45-18/82-SPB.1(Pt) dated 26th/29th August, 1985 the DGPT had reiterated the same and had only modified the age limit. Without any doubt, they clearly run counter to the provisions made in the 1963 Rules. The circumstances or instructions issued or to be issued either by Government or the DGPT cannot be in derogation of the law made by the Parliament, or by the President of India under the proviso to Article 309 of the Constitution. If such a situation arises, then the authorities are bound to ignore them, only to the extent they are in derogation of the Rules and regulate the recruitments in conformity with the Rules only.

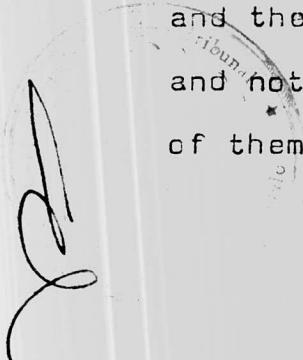
15. On the foregoing analysis it follows that steps taken to treat the posts as promotional posts for in-service EDAs, restrictions on the EDAs to appear for the examination or their number were all illegal and impermissible which normally justifies us to undo all of them. But the question is whether we should do so or not.

16. Sriyuths Rao, Patil and Dr. Nagaraja contend that notwithstanding all illegalities and the conclusions reached by us, we should decline to interfere for more than one ground. Sri Achar vehemently opposes the same.

17. Whether legal or illegal, valid or invalid, proper or improper, the authorities have taken various steps for ~~examining and selecting candidates~~ recruitment and have almost completed their recruitment to the posts which are stated to be vacant for a long time. All those who appeared for the examinations, in particular those who have passed and appointed in some divisions are not parties to these proceedings. If we were to annul all the actions taken so far, then their interests would undoubtedly be affected and they would even suffer grave and incalculable injury. On an evaluation of all the facts and circumstances, we are of the view that such a drastic step is not called for. We therefore consider it proper and just to decline to annul the steps so far taken by the PMG and his subordinates to the 410 vacant posts of postmen. But we hasten to add that in future they cannot do so and should do so in strict compliance of the 1969 Rules.

18. In pursuance of the interim orders made in some cases some of the applicants have appeared for the examinations. As we have declined to interfere with the earlier mode of selections we must necessarily reject their claim and direct the authorities to exclude them for selection.

19. In 1969 Rules there are many gaps and deficiencies and they can only be removed by making suitable amendments and not by issuing circulars and instructions in derogation of them and creating awkward situations for one and all.



We need hardly say that the same calls for an indepth examination and remedial actions with expedition.

20. In the light of our above discussion, we make the following orders and directions.

(a) We declare that 50% of the posts of Postmen under the 1969 Rules are earmarked for direct recruitment to which the inservice EDAs can be made eligible by DGPT subject to such conditions and the manner as he may decide under note 2 of the Schedule to the said Rules. But that power cannot be exercised to convert that method of recruitment to one of promotion for inservice EDAs as done by him and his subordinates. But notwithstanding the same, we decline to interfere with the process of selections and selections of candidates so far made only.

(b) We direct the respondents to regulate the future selections strictly in conformity with the 1969 Rules.

20. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

Sd - - -

Vice-Chairman

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Sd - - -

Member (A) 11-4-1987

(iii) Issue direction to the Respondent to set the question papers in the regional language; and

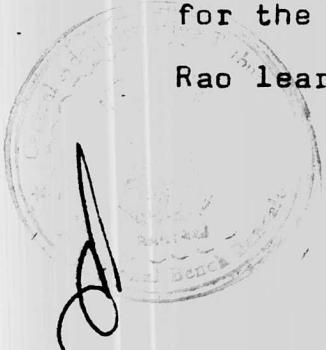
(iv) Issue such other directions as deem fit in the circumstances of the case."

Among others, the applicants have urged that the posts of postman exclusively earmarked for direct recruitment under the 1969 Rules have been illegally converted into promotional posts and all steps undertaken by all the authorities to fill them on that basis were illegal and impermissible. Hence the applicants have sought for annulling all the steps taken so far and for appropriate directions thereto to call for applications, hold fresh examinations and make recruitment in conformity with the 1969 Rules.

8. In their common reply, the respondents have asserted that the posts, are promotional posts to be filled only by the inservice EDAs and all steps taken to so fill them were in conformity with the instructions issued by Government and the DGP from time to time were legal and valid.

Achar

9.. Sri M. Raghavendra, learned Advocate has appeared for the applicants in all these cases. Sri M. Vasudeva Rao learned Addl. Central Government Standing Counsel



has appeared for the respondents in all these cases.

Sriyuths C.R. Patil and Dr. M.S. Nagaraja, learned Advocates have appeared for the intervenors.

10. Sri Achar contends that under the 1969 Rules 50% posts of Postmen were required to be filled by direct recruitment which should be open to all eligible candidates and they cannot be converted into and filled as promotional posts as illegally done by the respondents and therefore it was imperative to annul all steps so far taken and issue appropriate directions thereto.

11. Sriyuths Vasudeva Rao, Patil and Dr. Nagaraja have sought to support the actions of the PMG and his subordinates.

The relevant portion of the 1969 Rules relating to method of recruitment, age limit and other qualifications and the schedule appended to them, which are material reads thus:

"4. Method of recruitment, age limit and other qualifications:- The method of recruitment to the said posts, age limits, qualifications and other matters relating to them shall be specified in columns 4 to 12 of the aforesaid Schedule:

Provided that the upper age limit prescribed for direct recruitment and promotion may be relaxed in