

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: 24 JAN 1995

APPLICATION NO: 2087 of 1994.

APPLICANTS:- Smt.H.S.Shylaja, Bangalore-13.

V/S.

RESPONDENTS:- Senior Superintendent of Post Offices, West Division,
Bangalore and two others.

To

1. Sri.S.K.Mohiyuddin, Advocate, No.11,
Jeevan Buildings, Kumarapark East,
Bangalore-560 001.
2. Sri.M.S.Padmarajaiah, Senior Central
Govt.Stng.Counsel, High Court Bldg,
Bangalore-560 001.

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 13th January, 1995.

Issued on
24/01/95

[Signature]

[Signature]

9/c

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NUMBER 2087 OF 1994

FRIDAY, THIS THE 13TH DAY OF JANUARY, 1995.

Mr. Justice P.K. Shyamsundar,

Vice-Chairman.

Mr. T.V. Ramanan,

.. Member(A)

Smt. H.S. Shylaja,
Aged 34 years,
W/o Sri R. Advisha,
At No. 273/6, Munivenkatappa
Building, Jalahalli,
Bangalore-13.

.. Applicant.

(By Advocate Shri S.K. Mohiyuddin)

v.

1. Senior Superintendent of Post
Offices, West Division,
Rajajinagar, Bangalore-10.
2. Assistant Superintendent of Post Offices,
West Division, Rajajinagar,
Bangalore-560 010.
3. Smt. H.S. Bhargavi,
D/o H.S. Satyanarayana Iyengar,
E.D. Stamp Vendor,
Jalahalli West P.O.,
Bangalore-13.

.. Respondents.

(By Standing Counsel Shri M.S. Padmarajaiah)

O R D E R

Mr. T.V. Ramanan, Member(A):

We have heard Sri S.K. Mohiyuddin, learned counsel for the applicant and Shri M.S. Padmarajaiah, learned Standing Counsel for the respondents. We have also got the records of the department and perused them.

2. The applicant is aggrieved with the appointment of R-3 as E.D. Stamp Vendor at Jalahalli West Post Office, Bangalore. The applicant was one of the twelve candidates sponsored by the




Employment Exchange for being considered for appointment as E.D.Stamp Vendor at the Jalahalli West Post Office on a regular basis. The authority competent to make the selection considered the cases of all the twelve candidates sponsored by the Employment Exchange and selected R-3 Smt. H.S.Bhargavi on the ground that she was the only candidate having higher qualification and also possessing knowledge of Hindi Typewriting and also interested in literary and cultural activities, an additional factor which weighed with the authority in selecting her, who also was the only candidate to have past experience.

3. In the first place, the contention of the applicant was that the minimum educational qualification prescribed for the post of E.D.Stamp Vendor being VIII Standard with preference being given to those qualified at the S.S.L.C.examination, the selection of R-3 on the ground that she had higher educational qualification having passed the second year P.U.C. was discriminatory and arbitrary. Further even according to the marks obtained in the S.S.L.C., R-3 had secured less marks than one Basavaraj Kumbar, the marks secured by both being 283 and 312 respectively. In the second place the applicant being a member of a Scheduled Tribe, in terms of the instructions issued as regards selection of E.D.Agents, she should have been given preference being a Scheduled Tribe candidate.

4. In our view, both the contentions are not acceptable. In the first place, irrespective of whether the appointing authority had considered the higher P.U.C.qualification of R-3 or not, the fact remains, on the basis of perusal of records, that R-3 had secured more marks in S.S.L.C. than the applicant. While R-3 had secured 283 marks out of 600, the applicant had secured only 239 marks out of 600. Thus, strictly on the basis of selection by merit on the basis of marks, it is found that

the applicant having secured less marks than R-3 she did not have a chance of being selected to the post referred to supra. It is a different matter that the selection made may be considered to be vitiated if only merit based on marks obtained in S.S.L.C. was the only criterion because although R-3 secured less marks than Basavaraj Kumbar, another candidate, the said candidate who can have a grievance against the selection has not come up to challenge the selection of R-3. The applicant certainly cannot have a grievance against the selection of R-3 for the reason that she has secured less marks than R-3.

5. As regards the second contention of the learned counsel for the applicant that the applicant being a member of a Scheduled Tribe she should have been preferred for selection to the post and not R-3 or anyone else, we do not agree with the contention. What the instructions issued by the department say is that if representation of Scheduled Castes and Scheduled Tribe in the category of E.D.Agents is not upto the percentage prescribed for reservation for regular posts, then the appointing authority while making appointments to the post of E.D.Agents should give preference to candidates belonging to Scheduled Castes and Scheduled Tribes. Unfortunately for the applicant, the application does not mention that in the Bangalore West Division of the Department of Posts there is a short fall of representation of persons belonging to the Scheduled Tribes. Normally, when such instructions exist, it is expected that the appointing authority concerned would abide by those instructions and take care that the instructions are followed. If that is the accepted position, the conclusion to be drawn is



that there is no short fall of representation of Scheduled Tribes in the category of E.D.Agents in the Bangalore West Division. In any case, this has not been alleged in the original application before us. It is, therefore, not for us to question the respondents to tell us whether there is a short fall in the reservation upto the limits prescribed for the Scheduled Tribes in the Bangalore West Division.

6. For the foregoing reasons, we do not find any merit in this application and the application is dismissed. No order as to costs.

7. It is not denied that the applicant belongs to one of the Scheduled Tribes. If her name gets recommended for filling up any other E.D.Post in the Department of Posts by the Employment Exchange and in case she responds to a public notification which may be issued by the department for recruitment to ED posts, the department may consider her case, she being a Scheduled Tribe, by taking into account any short fall in the category of E.D.Agents in the division concerned for reservation to Scheduled Tribes subject to her being suitable in all other respects.

8. Shri M.S.Padmarajaiah, learned Standing Counsel is permitted to file his memo of appearance for the respondents and he is granted 4 weeks time to do so.



MEMBER(A)

VICE-CHAIRMAN. /

TRUE COPY
np

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore