

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NOs.656/97, 657/97 & 658/97

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. Vijay Ramchandra Bane
2. Pradip Dattaraya Kambli
3. Sanjay Kashiram Labde

All are working as Postman,
Malad East Post Office,
Mumbai-93.

... Applicants

By Advocate Shri S.P.Kulkarni

V/S.

1. Senior Superintendent of
Post Offices,
North West Division,
Borivli, Mumbai.
2. Chief Postmaster General,
Maharashtra Circle,
Old G.P.O. Building,
Fort, Mumbai.
3. Union of India through
Secretary,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Parliament Street,
New Delhi.

... Respondents

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

O R D E R

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

These are the applications under Section 19 of the Administrative Tribunals Act, 1985 seeking the declaration that order dated 20.4.1989, 14.10.1993 and 8.4.1996 restricting the number of attempts to be made for pre 1989 candidates is arbitrary, quash and set aside orders dated 20.4.1989 with a direction to the respondents to allow unlimited number of chances to the applicants as per rules, declare the result and promote him if adjudged in merit with an alternative prayer that the applicant has not availed the chance of 1994 examination and thereby not availed five chances.

2. The facts giving rise to these OAs. 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

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. In reply filed by the respondents which is not disputed by the applicants 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.

4. 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 in July, 1996.

5. As there is change in the instructions issued by the respondents and in view of change 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 in July, 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.

6. With these directions that applicants are entitled to six chances for appearing in Limited Departmental Competitive Examination, the OAs. stand disposed of. No order as to costs.

(SHANTA SHASTRY)

MEMBER (A)

(S.L.JAIN)

MEMBER (J)

mrj.