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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD :

O.A.No.496/90.

Date of Judgment: 23.8.1990

1. C.Shankar S/o (Late) D.Narasimha,
aged about 32 years, occ: ED Mailman
R/o 9-3-274, Regimental Bazar,
Secunderabad.
2. M.Ravikumar s/o M.Narasimhachary,
aged about 31 years, occ:ED Mailman,
R/o 6-1-283/6, Padmarao Nagar,
Secunderabad.
3. Syed Khasim s/o Syed Abbas,
aged about 30 years, occ: ED Mailman
R/o 10-474, Premvijayanagar Colony,
Malkajagiri, Secunderabad.
4. K.Jitendranath s/o K.Jagenmohan
aged about 30 years, occ: ED Mailman,
R/o 8-1-342, Shivaajinagar,
Secunderabad.

....Applicants

Vs.

1. The Head Record Officers,
Head Record Office, Hyderabad Sorting
Division, Department of Posts,
Hyderabad-500 001.
2. The Senior Superintendent of Post Offices,
Department of Posts,
Jamia-Osmania, Hyderabad-500 007.
3. Union of India rep. by its
Post Master General, Andhra Circle,
Abids, Hyderabad-500 001.

....Respondents

Counsel for the Applicants : Shrin.V.Venkateswara Rao

Counsel for the Respondents : Shri Naram Bhaskar Rao,
Addl.CGSC

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

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(Judgment of the bench delivered by Shri B.N.Jayasimha, HVC)

The applicants herein are Extra Departmental Mail Men working in Hyderabad Sorting Division. They state that they were promoted as Officiating Mailmen during the years 1981 to 1983. The Hyderabad Sorting Division is a separate unit for the purpose of appointment, seniority and promotion to Group -D posts. The applicant No.1 has passed 6th class, applicant No.2 S.S.C., applicant No.3 VIII class and the applicant No.4 Intermediate. The seniority list of Extra Departmental Mail Men shows them at S.Nos. 22, 37, 36 and 38. They were promoted as Mail Men after conducting a Literacy Examination in 1983. A literacy test was held on 17.6.90 to fill 42 posts of Main Men. Out of 42 posts, 7 were reserved for Scheduled Castes, 2 for Scheduled Tribes and 2 for non-test and the remaining 31 were for O.C candidates. 126 E.D.Main Men in the ratio of 1:3 were allowed to take the Literacy examination. They state that they passed by securing qualifying marks but the results were not communicated by the respondents. According to rules E.D.Mail Men who secure qualifying pass marks are to be promoted to the post of Mail Men according to the seniority list dt.26.8.85. The respondent No.1 released a panel of 39 E.D. Mail Men in his proceedings dt.26.6.1990. The seniority of the E.D. Mail Men who passed the qualifying examination has been ignored and juniors have been included in panel at S.Nos. 5, 10 to 39. They have therefore filed this application questioning the order No.OH/Group-D/ Apptt-90 dated 26.6.90 issued by the respondent No. 1 empannelling juniors to the applicant for appointment as Mail Men.

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2. The respondents state that a notification was issued by letter dt.29.1.90 for conducting an examination to Group 'D' staff. Hall Tickets were issued to all eligible candidates by the Senior Superintendent of Post Offices furnished marks list and the results were declared on 26.6.90. The applicants did not qualify in the examinations and hence their names were not included in the select list. Mere seniority does not entitle them to promotion and the applicants have to qualify in the examination. Promotion to the cadre of Mailmen is on the basis of seniority subject to the candidates securing a minimum of 50% of the marks in each paper. In respect of SC/ST candidates, the qualifying marks are 33%. As the applicants did not qualify in the examination, juniors referred to in the application who secured qualifying marks were selected. The averments of the applicants that they did well in the examination and they have all passed by securing good marks are not true.

3. In a reply to the counter the applicants state that they have been deliberately failed only to favour the persons whom the respondents are interested. Earlier E.O. Mail Men had been absorbed strictly in accordance with the seniority and it is not open to the respondents to disqualify the eligible persons on the basis of qualifying test. They state that the entire records pertaining to the selection should be called and not merely the marks sheet for perusal. They also state that the vacancies had been clubbed together and a single panel has been published which is contrary to the rules. They also state that they were subjected

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to Literacy Test in the year 1981 and the duties of E.D Mail Men and regular Mail Men are similar and identical, and disqualifying in the literacy test is therefore not correct. In the name of literacy test the respondents have adopted the policy of 'Pick and Choose'. They also rely on the decision of Supreme Court in Amrik Singh Vs. Union of India (AIR 1980 SC P 1447) in support of their case.

4. We have heard Shri Venkateswara Rao, learned counsel for the applicant and Sri Naram Bhaskara Rao, Addl. Standing Counsel for the respondents who has also placed before us the relevant records. Sri V. Venkateswara Rao mainly raises the following contentions:

- i) That the applicants had passed a literacy test in 1981/1983 and they cannot be disqualified in the literacy test held in 1990.
- ii) The panel should have been prepared yearwise and not clubbed together as the vacancies were not filled from the year 1983 to 1990 due to a ban imposed by the Government.
- iii) The respondents have acted mala fide by disqualifying the applicants in order to favour persons of their choice and the question papers contains difficult words beyond the normal requirements of the work of the applicants.
- iv) According to the instructions issued by the DGPT letter No.45-18/82 SPB-I (PT) dt.29.8.85. The question

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- ii) The panel should have been prepared yearwise and not clubbed together as the vacancies were not filled from the year 1983 to 1990 due to a ban imposed by the Government.
- iii) The respondents have acted mala fide by disqualifying the applicants in order to favour persons of their choice and the question papers contains difficult words beyond the normal requirements of the work of the applicants.
- iv) According to the instructions issued by the DGPT letter No.45-18/82 SPB-I (PT) dt.29.8.85. The question

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papers are to be set and evaluated by the concerned divisional heads and these items of work are to be handled personally by the concerned divisional heads and not to be entrusted to any subordinate authority. This has not been observed. According to the scheme of examination a literacy test is required to be conducted to test (1)(a) Ability to write local language (b) Ability to write English, letters and numerals.

MVS

5- From the facts narrated above it is seen that the Department conducted the literacy test as prescribed in the relevant instructions. The applicants have not secured the qualifying marks. We are unable to accept that because they had been promoted on adhoc basis after a qualifying test held earlier, they should not have been asked to take the test once again for regular promotion. We do not see any merit in the contention that the vacancies should not have been clubbed or that yearwise panels should have been prepared. There was^aban_L on filling the posts and hence no tests were conducted from 1983 to 1990. In this case, there is no selection on the basis of merit but the promotions are on the basis of seniority-cum-fitness. The test is conducted to assess the fitness for promotion. All persons who passed the literary test are declared as qualified and promoted strictly in accordance with their seniority. The applicants having failed to qualify in the test are not eligible for promotion at all. Even if a yearwise panel is prepared, the applicants cannot be included as they have failed to qualify in the test. The contention that the respondents have deliberately failed them has been raised only in the reply to the counter and

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there is no such allegation in the main application. In fact in the main application, the applicants had said that they had qualified in the test. There is no material in support of the contention that the respondents have deliberately failed them or that they have adopted "pick and choose" method in selecting the candidates. The records also show that the test was conducted by the Sr. Superintendent of Post Offices in accordance with the instructions. We have also perused the question papers set for the test. We are unable to accept the contention that very difficult tongue twisting words not ordinarily used have been employed for the test. The words employed for the test are used in common day to day life. We do not see how Amrik Singh's case will come to the aid of the applicants.

6. In the result, the application fails and it is accordingly dismissed. No costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice Chairman

D. Surya Rao
(D. SURYA RAO)
Member (Judl)

Dt. 23rd August, 1990

Deputy Registrar (Judl)
for Deputy Registrar (Judl)

To SQH*

1. The Head Record Officers, Head Record Office, Hyderabad Sorting Division, Department of Posts, Hyderabad-1.
2. The Senior Superintendent of Post Offices, Department of Posts, Jamia-Osmania, Hyderabad-7.
3. The Post Master General, Union of India, Andhra Circle, Abids Hyderabad-1.
4. One copy to Mr. v. venkateswara Rao, Advocate 1-1-287/27, Chikkadapally, Hyderabad.
5. One copy to Mr. Naram Bhaskar Rao, Addl. CGSC. CAT. Hyd. Bench.
6. One spare copy.

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APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

THE HON'BLE MR. D. SURYA RAO : MEMBER (J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: 23/8/90

ORDER/JUDGMENT:

I.A./ R.A./C?A/No.

in

T.A. No.

W.P. No.

O.A. No.

496/90

Admitted and Interim directions issued
Allowed.

Dismissed for Default.

Dismissed as withdrawn.

Dismissed. Fail

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

