

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD

O.A.Nos.528 of 1990  
and  
578 of 1990

Date of Decision: 23.8.1990.

Between:-

1. Y. Krishna
2. Syed Shamuddin
3. V.L. Murali Krishna
4. B. Vittal
5. V. Bala Swamy
6. G. Ramakrishna
7. G. Vijay Kumar
8. Syed Sharfuddin
9. Habeeb Rafe
10. Md. Yawaruddin

.. Applicants in O.A.528 of 1990

1. Syed Zakiuddin
2. Prakash
3. S. Satyanarayana
4. S. Rameswar

.. Applicants in O.A.578 of 1990

A N D

1. The Union of India represented by the Director-General of Posts, New Delhi-110001.
2. The Senior Superintendent of Railway Mail Service Hyderabad Sorting Division Hyderabad-500027.
3. Head Record Officer Hyderabad Sorting Division G.P.O. Building Hyderabad-500001.

.. Respondents in both O.As.

APPEARANCE:

For the Applicants in both : Shri J.V. Lakshmana Rao,  
the O.As. Advocate.

For the Respondents : Shri Naram Bhaskar Rao,  
(in-ss-) Addl. C.G.S.C.

CORAM:

THE HONOURABLE SHRI B.N. JAYASIMHA, VICE-CHAIRMAN.  
THE HONOURABLE SHRI D. SURYA RAO, MEMBER (JUDICIAL).

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(O.As. 528 of 90 & 578 of 90)

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.)  
JAYASIMHA, VICE-CHAIRMAN.

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1. The Applicants herein, who are 14 in total, are Extra Departmental Agents, working in the office of the Senior Superintendent, RMS, Hyderabad Sorting Division, Hyderabad. They have filed this O.As. questioning the literacy test held in 1983 and seeking cancellation of the test conducted on 17-6-1990.
2. The Applicants state that they were appointed as Extra Departmental Agents in the Railway Mail Service, office of the Senior Superintendent, RMS, Hyderabad Sorting Division, from 27-7-1981. Respondent No.3 issued a letter No.B6/1/6/STC, dated 13-3-1990 calling applications from eligible candidates for the literacy test to be conducted for filling up the posts of Mail Men. It was intimated that the literacy test will be conducted with syllabus of ability to write local language and ability to write in English and numericals. All the Applicants were permitted to appear for the literacy test held on 17-6-1990. Appointment order was issued to 33 candidates, who were declared as selected. None of the Applicants was selected for appointment. The Applicants herein are all seniors to those who have been selected. The Applicants contend that the literacy test was only a formality and the question of qualifying in the test does not arise. No examination was conducted from 1983 onwards and all the vacancies were clubbed together and the examination was held after a lapse of about 8 years. This has been prejudicial to the interests of the Applicants.

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Some of the Applicants had passed the literacy test in 1983 and they were not appointed at that time for want of vacancies. The Applicants have, therefore, filed these Applications questioning the literacy test conducted on 17.6.1990 and urged the following grounds in support of their contention:-

1. Since last literacy test was held in 1981, all the vacancies arose yearwise were clubbed together and a single ~~literacy~~ test was conducted in 1990 and therefore clubbing of vacancies is contrary to the rules as held in S.N. Sharma and others vs. Union of India and others (SLJ 1989(1) (CAT) 257) and in Basava Sindivele vs. Union of India & others (ATR 1987(2) C.A.T. 275). If the literacy test had been held every year as per the availability of vacancies, the Applicants would have had a better chance of selection.
2. Seniority has not been given any consideration in the selection made and junior-most candidates have been selected.
3. On behalf of the Respondents a counter has been filed stating that the Extra Departmental officials with 3 years of service were eligible to take the examination. The qualifying marks prescribed for the literacy test are 50% in each paper. The reduced standard of 33% is applicable to SC/ST candidates. The qualified candidates are selected on the basis of total length of service. The Applicants in these O.As. did not secure the qualifying marks in the examination. The Applicants' contention that the examination was tough is not correct. The test was held to assess the ability of the candidates to write local language and ability to write English and numericals and such test is essential in performance of duties in Group 'D' Cadre. The fact that a number of

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candidates have qualified in the examination itself shows that the test papers were not beyond the competence of the Extra Departmental Agents. As the Applicants have acquiesced in taking the examination held on 17-6-1990 and did not protest at that time, they cannot now claim the plea that the vacancies have been clubbed. For these reasons the Respondents oppose the O.As.

4. We have heard Shri J.V.Lakshmana Rao, learned Counsel for the Applicants and Shri Naram Bhaskar Rao, learned Additional Central Government Standing Counsel, for the Respondents.

5. Shri Naram Bhaskar Rao has placed before us copies of the relevant question papers set for the literacy test. On a perusal of these papers, we are unable to agree with the contention of the Applicants that a tough paper has been set, which is beyond the capability of an ordinary literate person. We have, therefore, to reject this contention at the outset.

6. The next contention is that the vacancies have been clubbed together and it has caused prejudice to the Applicants. Shri Laxmana Rao relies upon two cases in support of his contention as mentioned earlier. In S.N. Sharma's case (SLJ 1989(1)(CAT) 257) it was held that clubbing of vacancies and drawing up a select list after a lapse of nearly 10 years and considering persons who were not eligible when the vacancies arose but had become eligible during the course of these ten years is bad. It was also observed that the D.P.C. ought to have met annually and if for any reason it did not meet although vacancies did arise during those years, as and when it met,

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To

1. The Director-General of Posts,  
Union of India, New Delhi .1
2. The Senior Superintendent of Railway Mail Service,  
Hyderabad Sorting Division, Hyderabad -27.
3. The Head Record Officer,  
Hyderabad Sorting Division, G.P.O.--  
Building-Hyderabad.1
4. ~~Two~~ copies to Mr. J.v. Lakshman Rao, Advocate  
Flat No. 30, Balaji Towers, New Bakaram, Hyderabad - 380.
5. ~~Two~~ copies to Mr. N. Bhaskara Rao, Adl CGSC. CAT. Hyd. Bench.
6. One spare copy.

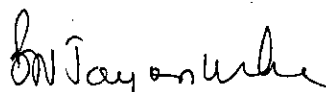
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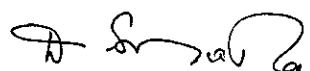
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it should have drawn up a select list for each of those years separately after considering only such of the officers who were eligible to be considered under the rules in the respective years. In Basava Sindivele's case (ATR 1987 (2) CAT 275), the Madras Bench of this Tribunal was considering a similar case where the vacancies arising in the different years were bunched together and considered at one D.P.C. It was held by the Madras Bench that bunching of vacancies was contrary to the instructions. We are of the view that the ratio in these cases do not apply to the present case before us. Firstly in this case, there is no selection by DPC and there is also no zone for consideration. All the ED Agents with three years of service are eligible to appear for the common test. All persons who qualify in the literacy test will be empanelled strictly according to their seniority i.e. length of service as ED Agents. Secondly, the applicants have not qualified in the test and therefore have no right to be appointed. Even if a fresh panel was to be prepared on the basis of yearwise vacancies, the Applicants having failed in the literacy test, cannot figure in the yearwise panels.

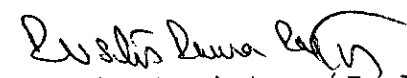
7. In the result we find no merits in the Applications and dismiss <sup>them</sup> ~~the~~ accordingly. No costs.

  
(B.N. JAYASIMHA)  
VICE-CHAIRMAN

  
(D. SURYA RAO)  
MEMBER (JUDICIAL)

Dated: 23<sup>rd</sup> August 1990

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Deputy Registrar (Judl)

55.12

hrs  
27/8  
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CHECKED BY

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:

M.A./ B.A./ C.A./ No. in

T.A. No.

W.P. No.

O.A. Nos. 528/90 and  
578/90.

Admitted and Interim directions issued  
Allowed.

Dismissed for Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

