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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 917/92

Date of Order: 31-8-95

Between

B. Satya Rao.

.. Applicant

and

- 1- The Union of India rep. by its Secretary,
Ministry of Communications,
New Delhi.
2. The Chief Postmaster General, A.P. Circle,
Abids, Hyderabad.
3. The Postmaster General,
Visakhapatnam ~~General~~ Division,
Visakhapatnam-3.
4. The Senior Superintendent of Post Offices,
Visakhapatnam Division, Visakhapatnam-1.

Respondents.

For the Applicant :- Mr. M.P. Chandramouli, Advocate.

For the Respondents: Mr. N.V. Raghava Reddy.
Sd/-/Add. CGSC

CORAM:

THE HON'BLE MR. JUSTICE V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR. RANGARAJAN : MEMBER (ADMN)

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri M.P.Chandramouli, learned counsel for the applicant and Shri N.V.Raghava Reddy, learned standing counsel for the respondents.

2. The applicant is working as Postman in Visakhapatnam Division. He appeared for the departmental test held on 31.10.1982 for consideration for promotion to the post of Postal Assistant. The applicant was one of the 10 candidates of the Visakhapatnam Division who was declared as qualified in the examination and he stood at Sl.No.10.8. But as there were only two ST vacancies for the Postal Assistants in Visakhapatnam Division and ~~the first~~ 8 of them ^{declared qualified} were OCs and two were SCs, all those 10 were declared as surplus. But as per rules, those who were declared as surplus in a particular division had to be given option to consider for appointment in any one of the three chosen divisions. Accordingly, the letter dated 17.5.1983 was issued by R-4 to all the 10 including the applicant. It is stated for the respondents that those who were at Sl.No.1 to 3 and the two SCs who were at Sl.No.6 and 10 in the list for Visakhapatnam Division, were given appointments ⁱⁿ to the other divisions on the basis of their choice and the applicant could not get it as there were not ^{sufficient} vacancies in other divisions and in view of his low ranking position.

3. It is stated for the respondents that the applicant was also required to appear for the examination conducted in 1983, as the rules permit that even those who were declared

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surplus in a division and who could not get appointment are eligible to appear for the later examination, vide memo No.89/8/82, dated 13.10.1983. The same was challenged by the applicant herein and two others in W.P.NO.10089/83 and it was registered as T.A.NO.127/87 on being transferred to this Tribunal. The same was dismissed by the order dated 18.8.1987. But when the applicant therein relied upon the circular dated 12.2.1986 it was observed that if there was shortfall as envisaged in the circular dated 12.2.1986 and if the applicants therein are eligible to get the benefit out of the said circular, it is open to them to seek relief from the department.

4. The plea of the applicant is that even though he requested the respondents ^{to consider the same, by} ~~on the basis of~~ his representation dated 10.11.1987, and reminders seeking the benefit under circular dated 12.2.1986, ^{was issued,} there was no response and hence he was constrained to file this OA praying for direction to the respondents to act in accordance with the circular dated 12.2.1986 and the observations of this Tribunal in the order dated 18.8.1987 in T.A.NO.127/87.

5. When the staff side complained that though the direct recruitment was being resorted to for the posts of Postal Assistants, no steps were being taken for filling up the vacancies available for promotees, ~~and thereupon~~ the letter No.60/48/85-SPB-I, dated 8.1.1986 was issued. But in modification of the same, Directorate's letter No.60/48/84-86 SPB-I, dated 12.2.1986 was issued. The later ^t circular is relevant for our consideration and the relevant portion therein reads as under:-

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" I am directed to invite your attention to para-3 of this office letter of even No. dated 8th January 1986 wherein it has been provided that necessary action to provide the qualified lower grade officials of 1981 and 1982 examinations to clerical cadres against future vacancies becoming available due to retirements promotion etc., earmarked for departmental quota may be taken. In partial modification of the aforesaid instructions and in consideration of the need for providing avenue for early absorption of the L.G.Os as stated above, the following instructions are issued:-

In case in the recruitment made in clerical cadre upto 4th January, 1984 the total number of departmental promotees has been less than 50% of the quota reserved for them in T/S Clerical cadres, the imbalance may be made good by promoting the L.G.Os who have been declared successful in the years 1981 and 1982. In case any such vacancies earmarked for departmental quota was filled up by surplus staff in the meantime, the same may be made available to the LGO candidates of 1981 and 1982 examinations in relaxation of the ban orders and the surplus thus created due to this displacement on account of the aforesaid exercise may be held in surplus till they are eventually absorbed under the existing order for absorption of surplus staff. To this extent, deployment of surplus candidates which was to be completed by 31st Dec 1985 will be postponed for some more time."

6. The submission for the respondents is that the short fall for promotees in the 50% of the quota for the entire circle was assessed, and in view of the low ranking position in the combined list of surplus candidates of 1982 examination for the entire circle, the applicant could not be absorbed.

7. The only point for consideration is as to whether for consideration of the letter dated 12.2.1986, the shortfall upto 4.1.1984 in each division has to be separately assessed and the short fall vacancies, if any, have to be filled up from among surplus candidates of the respective divisions only, as contended for the applicant, or whether the total shortfall of all the divisions in A.P. Circle by 4.1.1984 has to be assessed and the same have to be filled on the basis of the placements in the ^{combined} list for

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A.P.Circle, as urged for the respondents.

8. Neither DG's letter No.60/48/85-SPB-1, dated 8.1.1986, the relevant portion of which is as under:-

"3. Ministry of Finance (Dept. of Expenditure) vide their UONo.4434/E9 Coor)/85 dt. 6.12.85, have agreed the filling up of vacancies in the clerical cadre by the successful candidates of 1981 and 1982 departmental promotion examinations notwithstanding availability of surplus officials. Hence, you are requested to take further necessary action to promote the qualified Lower Grade officials of 1981 and 1982 examinations to Clerical cadres against future vacancies becoming available due to retirement, promotion etc. earmarked for Departmental quota. The surplus officials may be absorbed in regular vacancies in clerical cadres after qualified Departmental officials have been provided."

nor Directorate's letter dated 12.2.1986 indicates that the shortfall of all the divisions in A.P.Circle by 4.1.1984 have to be filled on the basis of the placements of the surplus candidates in the combined list in A.P.Circle. It may be noted that in the combined list for A.P.Circle while a junior might have been regularly appointed in view of the existence of the vacancies in that division, ~~while~~ his senior belonging to another division has to be declared as surplus for want of vacancy in that division. Hence, when even at the time of appointment on the basis of the performance in the examination, it is only the division placement that was taken into consideration, we feel that it is just and proper to hold that even as per the

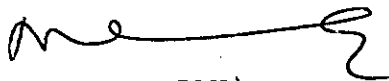
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Directorate's letters dated 8.1.1986 and 12.2.1986 it is only the placement in the division that has to be taken into consideration for filling up the shortfall upto 4.1.1984 in the respective divisions. Hence, we accept the contention for the applicant in regard to the above and hold that the contention for the respondents with reference to the same is not tenable. // Hence, if the applicant is having sufficiently high place from among the surplus candidates of 1981 examination of Visakhapatnam division for appointment as Postal Assistant, to fill up the short fall in the said division by 4.1.1984, he has to be given appointment. It is needless to say that if the applicant is not having sufficient high ranking for appointment as Postal Assistant on that basis, this OA stands dismissed.

9. The OA is ordered accordingly. No costs.//


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

Dated: 31st August, 1995.
Open court dictation.


Deputy Registrar (J) CC

To

vsn

1. The Secretary, Union of India,
Ministry of Communications, New Delhi.
2. The Chief Postmaster General, A.P. Circle,
Abids, Hyderabad.
3. The Postmaster General, Visakhapatnam Division,
Visakhapatnam.
4. The Senior Superintendent of Post Offices,
Visakhapatnam Division, Visakhapatnam-1
5. One copy to Mr. M. P. Chandramouli, Advocate, 1-7-139/1
SRK Nagar, Musheerabad, Hyderabad
6. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC. CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

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