

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA 135/93, 168/93, 211/93,
250/93, 253/93 & 481/93.

Dt. of Order:23-3-94.

OA 135/93.

V.Hymavathi

....Applicant

Vs.

1. A.P.Circle, Hyd-1.

2. The Sr.Superintendent of
Post Offices,
Hyd. City Division,
Hyd-1.

....Respondents

OA 168/93.

K.Narasimha Rao

..... Applicant

Vs.

1. The Union of India rep. by the
Secretary, Dept., of Posts,
Govt., of India, New Delhi.

2. The Chief Post Master General,
Andhra Circle, Dak-Tar Bhavan,
Abids, Hyd-1.

3. The Sr.Superintendent of Post
Offices, Sec'bad Divn. Hyd-7.

....Respondents

OA 211/93.

R.V.Subba Reddy

.....Applicant

Vs.

1. The Union of India, rep. by
its Secretary, Dept., of Posts,
Govt. of India, New Delhi.

2. The Chief Post Master General,
Andhra Circle, Hyderabad.

3. The Supdt., of Post Offices,
Proddatur Divn. Proddatur,
Cuddapah Dist.

.....Respondents

OA 250/93.

K.M.Sastry

.....Applicant

Vs.

1. The Chief Postmaster General,
AP Circle, Hyderabad-1.
2. The Supdt., of Post Offices,
Proddatur-516 361.

....Respondents

OA 253/93.

V.Ramaiah

.....Applicant

1. Supdt. of Post Offices,
Khammam Division, Khammam.
2. Chief Postmaster General,
AP Circle, Hyderabad.

....Respondents

OA 481/93.

K.Chandraiah

.....Applicant

Vs.

1. Supdt., of Post Offices,
Karimnagar Divn., Karimnagar.
2. Supdt., of Post Offices,
Khammam Divn., Khammam.
3. Chief Postmaster General,
AP Circle, Hyderabad.

....Respondents

.....3.

20/9/93

(26)

Counsel for the Applicant : Sri I.Dakshina Murthy
in OA 135/93 & OA 250/93
: Sri J.V.Lakshman Rao
in OA 168/93
: M/s N.Harishesha Reddy &
S.Krishna Mohan
in OA 211/93
: Sri S.Ramakrishna Rao in
OA 253/93 & OA 481/93
Counsel for the Respondents : Shri N.R.Devraj, Sr.CGSC
in OA 135/93
: Shri N.V.Raghava Reddy, Addl.CGSC
in OA 168/93 & OA 211/93
: Shri N.V.Ramana, Addl.CGSC
in OA 250/93 & 253/93
: Shri V.Bhimanna, Addl.CGSC
in OA 481/93

CORAM:

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

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

.....

30/9/93

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O.A.Nos. 135/93, 168/93, 211/93, 250/93, 253/93
and 481/93.

JUDGMENT

Dt: 23.3.94.

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

Heard S/Shri I.Dakshinamurthy, J.V.Lakshmana Rao, N.Harishesha Reddy, S.Ramakrishna Rao, learned counsels for the applicants and S/Shri N.R.Devareaj, N.V.Raghava Reddy, N.V.Ramana and ~~Sh~~ V.Bhimanna, learned standing counsels for the respondents.

2. All these OAs can be conveniently disposed of by common order as the same point arises for consideration. The facts in brief which are relevant for consideration of these OAs are as under:-

As per the incentive scheme referred to in the letter No.62-11/62-SPB-IT dated 30.5.1963, Postmen possessing Matriculation or equivalent as the minimum educational qualification and having service of three years were eligible for promotion to the post of Postal/Sorting Assistants. By the ~~Min~~ Ministry of Communications, Department of Posts letter No.60-127/85-SPB-I(Pt.), dated 31.3.1989, the minimum educational qualification was raised to 10+2 standard or 12th Class pass. But by the letter dated 5.7.1989, the office of the Chief Postmaster General required all the units in the circle to submit the names of Postmen who were having Matriculation or equivalent as the minimum qualification ^{consideration for} for promotion to the post of Postal/Sorting Assistants. The applicants in these OAs who merely passed SSC ie., equivalent to Matriculation were promoted ^{vide} to the post of Postal/Sorting Assistants ~~giving~~ the orders of promotion on dated 29.12.1989. ~~A show cause notice~~ dated 2.2.1993 was given to all these applicants to show cause as to why they should not be reverted by alleging that promotions

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to the post of Postal/Sorting Assistants were illegal as they were not having the minimum educational qualification of 10+2 standard or 12th class pass as per the extant rules. Then all these applicants filed the OAs and they are being continued, ^{as postal/sorting assistants} by virtue of the order given by this Tribunal.

3. These OAs were filed praying for quashing the impugned show cause notice dated 2.2.1993 and to direct the respondents to continue the applicants to work in their promotional posts.

4. The respondents produced the Ministry of Communications, Department of Posts letter dated 31.3.1989 whereby the minimum educational qualification for promotion ^{raised} ~~enhanced~~ to 10+2 standard or 12th class pass. The promotion of these applicants were on 29.12.1989 and thus subsequent to 31.3.1989, the date from which the minimum educational qualification for promotion under the incentive scheme is 10+2 standard or 12th Class pass. It is thus manifest that as on the date of their promotion, they were not having the necessary educational qualification for promotion under the incentive scheme.

5. It is urged for the applicants that they applied for promotion under the incentive scheme even in 1988 and as by then, they were having the matriculation, the minimum educational qualification prescribed as per the then existing rules, their promotions

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cannot be held as illegal. The said contention cannot be accepted. The communication for consideration for promotion under the incentive scheme was on 5.7.1989, the date of the letter from the A.P.Circle whereby all the offices under this circle were required to submit the names of the candidates who are eligible for promotion under the incentive scheme. Even by then, the minimum educational qualification was ^{raised} ~~enhanced~~ and the applicants were not having that qualification. As such, the promotions of the applicants cannot be held as legal.

6. The next question that arises is as to whether promotions can be cancelled and the applicants can be reverted after more than three years of their promotion when there was no misrepresentation on their part and when the mistake was on the part of the authority who promoted them.

7. It is not known as to why even in the letter dated 5.7.1989 in calling for information from the various offices in the circle, the minimum educational qualification was referred to as Matriculation or equivalent when even by then, the Ministry's letter dated 31.3.1989 states that the educational qualification should be 10+2 standard or 12th class pass. Be that as it may, it has to be stated that there is no misrepresentation on the part of the applicants and no material is placed to show that they or those who were ^{-ed} interested in them prevailed upon the circle offices to deliberately mention the minimum educational qualification ~~xxx~~ as Matriculation or equivalent in the letter dated 5.7.1989 of the circle.

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8. Ofcourse, the question of equity also has to be looked into. This is not a case where one is thrown out of the job in view of the realisation of the mistake after a number of years. On the basis of the reversion of the inservice candidates, it is a case of occupying a post in which they would have continued if the mistake had not crept in. In such a case, the reversion cannot be challenged even if the mistake was noticed after a number of years so long as prejudice is not caused. In this case, if the applicants were made known that the minimum educational qualification for promotion under the incentive scheme is 10+2 standard or 12th class pass, they would have made an attempt in 1989 itself to appear for the relevant examination to have promotion in case they pass in the examination. If the applicants are immediately reverted without giving them a chance to appear for the relevant examination, it will naturally cause prejudice to them and they should not be allowed to suffer for the mistake on the part of the circle office.

9. So, we feel that it is just and proper to pass the following order by keeping in view the legal position and the principle of equity:-

10. If the applicants do not pass 10+2 standard or 12th class examination by the first examination in 1996 to be conducted by any of the universities, then such applicants who have not passed by then have to be

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To

1. The Chief Postmaster General,
A.P.Circle, Hyderabad-1.
2. The Sr.Superintendent of Post Offices,
Hyderabad City Division, Hyderabad-1.
3. The Secretary, Union of India,
Dept.of Posts, Govt.of India, New Delhi..
4. The Chief Postmaster General,
Andhra Circle, Daktar Bhavan, Abids, Hyd-1.
5. The Senior Superintendent of Post offices,
Secunderabad Division, Hyderabad-7.
6. The Superintendent of Post Offices,
Proddatur Division, Proddatur, Cuddapah Dist.—516341.
7. The Superintendent of Post Offices,
Khammam Division, Khammam.
8. The Superintendent of Post Offices,
Karimnagar Division, Karimnagar.
9. One copy to Mr.I.Dakshina Murty, Advocate, CAT.Hyd.
10. One copy to Mr.J.v.Lakshman Rao, Advocate,
11. One copy to Mr.N.Harishesha Reddy, Advocate, CAT.Hyd.
12. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
13. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT Hyd.
14. One copy to Mr.N.v.Raghava Reddy, Addl.CGSC.CAT.Hyd.
15. One copy to Mr.N.v.Ramana, Addl.CGSC.CAT.Hyd.
16. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
17. One copy to Library, CAT.Hyd.
18. One spare copy.



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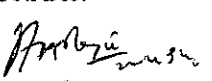
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reverted. But if they pass in that 10+2 standard or 12th class or higher examination later ie., in any examination after 1st examination in 1996, they have to be placed at the top of the list of the candidates eligible for promotion under the incentive scheme and they have to be promoted in the vacancies available to them without any further test or scrutiny by the DPC, if there is no vigilance case against them and they have to be appointed to the promotional post without subjecting them to any further training as they had already undergone the training. It is needless to say that the question of reversion of these applicants does not arise before the results of the first examination in 1996 for the 10+2 standard or 12th class or any higher examination are announced. It is for the applicants to bring to the notice of the respondents by 30.6.1996 as to whether the results were published by then and if so published whether they passed and if they were not published by 30.6.1996, they have to intimate the date on which results are likely to be published. It is open to the respondents to find out by 30.9.1995 from these applicants as to whether they already applied for the first examination in April 1996 or not and if they do not give any reply by 15.10.1995 or if they state that they had not applied for at all, they could be then reverted. Such of the applicants who would pass 10+2 standard of 12th class or get any degree by appearing for 1st examination in 1996 or earlier should not be reverted at all.

11. The OAs are ordered accordingly. No costs.

(A.B. GORTHI)
MEMBER (ADMN.)

(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 23rd March, 1994.
Open court dictation.

vsn


Deputy Registrar (W)

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