

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

27

O.A.No. 42/96.

Dt. of Decision : 14-08-98.

P.Sudhakar

.. Applicant.

vs

1. The Postmaster General,  
Vijayawada Region,  
Vijayawada.
2. The Sr. Superintendent of Post Offices,  
Nellore Division, Nellore.
3. Chandrakala

.. Respondents.

Counsel for the applicant : Mr. S. Remakrishna Rao

Counsel for the respondents : Mr. V. Bhimanna, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J))

Heard Mr.S.Rama Krishna Rao, learned counsel for the applicant and Mr.V.Bhimanna, learned counsel for the respondents.

2. The applicant herein was appointed as Extra Departmental Delivery Agent in A.K.Nagar Sub-Post Office, Nellore on 11-10-77. He passed intermediate in 1983 and B.A., Degree in 1989. He belongs to SC community. While in service the recruitment rules for Postal Assistants were amended by D.Gs. Notification No.60-52/90-SPB-I dt. 24-08-92 providing some vacancies for ED Agents against direct recruitment posts (unfilled). The amended rules came into force w.e.f., 24-08-92 & 6-10-1994. The applicant submits that he possessed the required education qualification and service as per the amended rules. His percentage of marks including the bonus marks was  $41.2\% + 10\% = 51.2\%$ .

3. The examination for selection against departmental quota for the year 1992 was held on 23-8-92, but the select list was declared on 24-8-92 i.e., after the amended rules came into effect. The short fall against the departmental quota under the amended rules was required to be offered to the eligible ED Agents. However, there was no notification issued by the R-2. The last open market candidate for comparing the percentage of marks was the one who was recruited during the year 1991 in a limited direct recruitment for SC category, whose percentage of marks was 57.6%. He submits that this was lower than the percentage of the marks secured by the applicant with the weightage of 10% allowed to him under the amended rules. The short fall in the departmental quota for recruitment year 1993 was not notified to the ED Agents and the applicant claimed to have lost the opportunity of selection.

Je

21

4. The applicant submits that the short fall in the departmental quota for 1994 was notified by the 2nd respondent in his letter No. B-1/5/21/94 dated 6-10-94. The applicant submitted his candidature in time. Though he possessed the marks 51.2% which was more than 51.1% notified for SCs, he was not selected.

5. Aggrieved by the non-selection he has filed this OA for a direction to the respondents to consider the case of the applicant for the post of Postal Assistant as per the modified recruitment rules under the departmental quota for the year 1992, 1993 and 1994 as the applicant was eligible in all those 3 years and for a consequential declaration that the applicant is deemed to have been selected with retrospective effect from an earlier date ~~xxxxxxxx~~ with all consequential benefits.

6. The respondents have filed the counter stating that as per the existing rules the unfilled vacancies of Postal Assistants in the previous direct recruitment was offered to the ED Agents having the required educational qualifications with the condition that such ED Agents who had secured 10 marks less than the last selected and appointed candidate, was eligible for consideration in order of merit among the candidates from ED category. They submit that the last selected and appointed OC candidate and SC candidate had secured 85.3% and 71.1% marks respectively inclusive of bonus marks 10 for graduation and ED Agents who had got OC 75% marks and SC had got 61.1% marks (i.e. 10 marks less to the total marks secured by the last selected and appointed OC/SC candidates).

JW

7. But they submit that the Sr.SPO, Nellore issued notification vide Memo No.B1/5/21/94 dt. 27-10-94 inviting applications from the ED Agents, who fulfilled the required educational qualifications, service and age and who secured 65.3% marks (for OCs) and 51.1% marks for SCs erroneously, instead of notifying the prescribed percentage of marks to be secured by the ED Agents as OCs 75.3% and SCs 61.1%. They submit that the notification dated 2-10-94 was a defective one. The applicant is a SC candidate and claimed bonus marks for graduation for selection as Postal Assistant on the defective notification.

8. The respondents in their counter <sup>have</sup> referred to the notifications dated 27-10-94 and 2-10-94. However, the applicant claims to have responded to the notification dated 6-10-94 (Annexure-I) and the respondents have not filed the copies of notifications dt.27-10-94 and 2-10-94 to the reply had they issued any such notifications.

9. As per the notification dt. 6-10-94 the only condition that was stipulated was that SC candidate should have secured not less than 51.1% of marks in the intermediate examination. The respondents have not at all traversed to the impugned notification dt. 6-10-94 ~~at all~~ in their reply.

10. There could not be any notification dt.2-10-94, as 2-10-94 <sup>happened</sup> ~~had~~ to be public holiday on account of Birth Anniversary of Mahathma Gandhi. Even according to the respondents the notification dt. 2-10-94 was also a defective one.

11. We feel that the respondents have filed their reply without proper verifications of records.

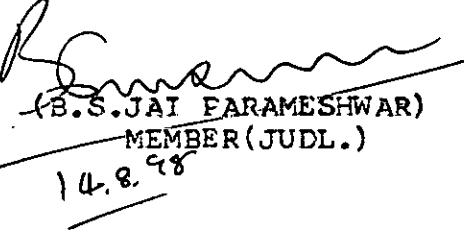
12. The applicant being a graduate is eligible for 10% bonus marks and as per the percentage he had secured 51.2% marks. That means the applicant was eligible for consideration for the post of Postal Assistant as per the notification dated 6-10-94. The learned counsel for the respondents submitted that the

*JR*

notification dated 6-10-94 was a defective one. If the respondents found that the notification dated 6-10-94 (Annexure-I) was a defective one they should have at least given a corrigendum thereafter, or they should have cancelled the same and issued a fresh notification. Even to this date they have not done anything and it is stated that none has been selected on the basis of the notification dated 6-10-94.

13. In view of the above, we are of the opinion that the case of the applicant requires to be considered against SC quota as per the notification dated 6-10-94 for promotion to the post of Postal Assistant.

14. The OA is disposed of. No costs.

  
(B.S.JAI PARAMESHWAR)

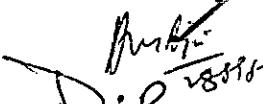
MEMBER(JUDL.)

14.8.98

  
(R. RANGARAJAN)

MEMBER(ADMN.)

Dated : The 14th August, 1998.  
(Dictated in the Open Court)

  
D.R. 18/8/98

spr

DA.42/96

Copy to :-

1. The Postmaster General, Vijayawada Region, Vijayawada.
2. The Sr. Superintendent of Post Offices, Nellore Division, Nellore.
3. One copy to Mr. S.Ramakrishna Rao, Advocate, CAT., Hyd.
4. One copy to Mr.V.Bhimanna, Addl.CGSC., CAT., Hyd.
5. One copy to BSOP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

7/9/98  
7

II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESWAR :  
M(J)

DATED: 14/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.N.3.

in

C.A.NO. He 2/98

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

