

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.435/96.

Dt. of Decision : 24-08-98.

K.K.D.Prasad

..Applicant.

Vs

1. The Union of India rep. by
the Chief Postmaster General,
A.P.Circle, Hyderabad.
2. The Postmaster General,
Vijayawada Region, Vijayawada.
3. The Sr.Superintendent of Post
Offices, Bhimavaram Division,
Bhimavaram.

..Respondents.

Counsel for the applicant : Mr.K.S.R.Anjaneyulu.

Counsel for the respondents : Mr.K.Bhaskara Rao, Addl.CGSC.

CORAM:-

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

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

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ORDER

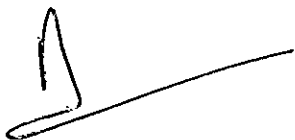
ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr.D.Subramanyam for Mr.K.S.R.Anjaneyulu,
learned counsel for the applicant. None for the respondents.
Mr.Radha Krishnan, ASP (Estt.) Was present and put forward the
views of the department.

2. A notification was issued bearing No.B5/10/94 dated
21-10-94 for promotion to the cadre of Postman for the vacancies
arising during the year 1994. The examination is divided into
two parts. The first part is that 50% of the vacancies will be
filled from Group-D staff termed as Departmental quota. Another
50% will be by direct recruitment from ED Agents. The direct
recruitment of 50% is once again divided into two portions viz.,
half for promotion by ED Agents by seniority and other half by
merit. The merit promotion is done on the basis of the examination

3. As per the above notification 5 posts are to be
filled by departmental quota comprising of 4 for OC and one for ST.
The rest of the 50% is to be filled by direct recruitment quota
i.e., 3 vacancies comprising of 2 OC and one SC by seniority and
the other two vacancies comprising of one OC and one ST by merit
quota. Against the departmental quota of five only one OC was
promoted. Against the seniority quota three were promoted. Th
against the departmental promotional quota there is short fall
of 4 and against the direct recruitment quota of merit 4 were
appointed i.e., two excess to the quota earmarked as per the
notification. The applicant submits that there are 5 vacancies
to be filled by departmental quota and as there is only one p

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is filled the left over ~~4~~ posts against the departmental quota should be added to the direct recruitment merit quota. It is also stated that one of the candidates, who was selected against the direct recruitment seniority quota was not eligible to be considered and hence three empanelled against the direct recruitment seniority quota is irregular. The empanellment should be only for one and thus two more vacancies are left against the direct recruitment seniority quota. That also should be added to the direct recruitment merit quota. Thus, the promotion to be ordered by direct recruitment merit quota should be 8. The applicant stands 5th in the list. Hence, he can be promoted against the merit quota without any difficulty. He was not promoted. Hence, the applicant submits that in view of the vacancies notified in the notification dated 21-10-94, 8 vacancies are to be filled by the direct recruitment merit quota. As ^{only} there ~~are~~ 4 vacancies were filled the rest of the four vacancies ^{also} are also should be filled in which the applicant ~~has also~~ should be promoted as Postman.

4. The first contention of the applicant is that four vacancies which are not filled by the departmental quota should be added to the direct recruitment merit quota. This is in accordance with the rule under the caption "Promotion Prospects" Section-VI of Swamy's Compilation. The relevant para reads as below:-

"As per existing orders, the unfilled vacancies of Departmental quota will be added to the quota for EDDAs. In future, the unfilled vacancies of Departmental quota will be added to the one half of the quota meant for ED candidates on merit only."

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The applicant submits that the unfilled vacancies of 4 against the departmental quota should be added to the direct recruitment quota in view of the rule and if so the number of vacancies for promotion ^{by merit} against the direct recruitment quota will be $4+2=6$.

5. The rule is not clear. We felt that ^{as per} the rule only 50% of the vacancies which are not filled by the departmental quota should be added to the direct recruitment merit quota. However, we find from the reply in para-5 it appears that all the unfilled vacancies of departmental quota should be added fully to the direct recruitment merit quota. The number of vacancies also wrongly indicated in that para. In any case as the respondents themselves accept that the unfilled vacancies of the departmental quota should be fully added to the direct recruitment ~~seniority~~ merit quota it is not necessary for us to interpret that rule. Hence, the total vacancies to be filled by direct recruitment merit quota is six and not ~~xxxxxx~~ two because of the non filling up of vacancies against the departmental quota.

6. The second contention of the applicant is that the direct recruitment seniority quota has been filled irregularly. The zone of consideration ~~xx~~ for calling for candidates against the direct recruitment seniority quota is 5 times the number of vacancies. The number of vacancies advertised as per the notification for direct recruitment seniority quota is two OC and one SC in which case only 10 OC and 5 SC should be called for whereas the number called for direct recruitment seniority quota is much more than the zone of consideration. Hence, the irregularly selected candidates against the panel of direct recruitment seniority quota should be set aside and that number should be added to the direct recruitment merit quota.

7. If the contentions of the applicant has to be up-held then the candidates who were selected ~~and~~ against the direct recruitment seniority quota should be heard. Without hearing them no order ^{can} ~~has been~~ passed. If the applicant felt that the zone of consideration for direct recruitment seniority quota had unnecessarily been enlarged without following the rule then he should ^{have} ~~protested~~ against that soon after the notification was issued and volunteers were called for. Unfortunately, the applicant failed to do so. He submitted to the notification without any murmur. Hence, at this juncture setting aside the recruitment against seniority quota in view of the objections raised by the applicant is uncalled for and it is untenable. Hence, this contention is rejected.

8. ^{of the} One ~~empanelled~~ candidate against the direct recruitment seniority quota ~~xxxxxxx~~ has not joined. Hence, that should be added to the direct recruitment merit quota. For this he relies on the Rule (1) (iii) of Promotion Prospects under Section-VI of Swamy's compilation. This para reads as below:-

"If sufficient number of EDAs are not recruited from a Division, the vacancies shall be thrown open to all the EDA of the Postal Divisions falling in the Zone of Regional Director instead of neighbouring divisions as provided in the instructions at present."

A reading of the above para does not make us believe that the selected candidate if refused to join it should be added to the direct recruitment merit quota. If the number of vacancies

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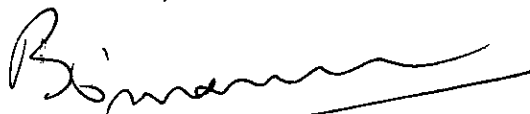


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in the merit quota is increased without any rhyme or reasons then, that will put those who had not applied for selection against the direct recruitment merit quota on the basis that the numbers to be selected is very limited and they being lower in the seniority list may not get selected, in ^adisadvantageous position. Hence principle of natural justice has to be followed and on that basis this contention cannot be accepted.

9. In view of ~~the~~ what is stated above, it has to be held that the vacancies for promotion for the post of Postman against direct recruitment merit quota is to be taken as 6 instead of 2. The six vacancies should be ^{apportioned} ~~appointed~~ between CO and SC and ST in accordance with the roster. On that basis from amongst those who appeared for the selection against the departmental merit quota and came out successfully in the examination should be filled.

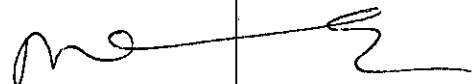
10. The OA is ordered accordingly. No costs.



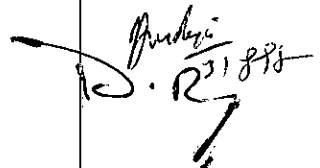
(B.S. JAI-PARAMESHWAR)
MEMBER (JUDL.)

24.8.98

Dated : The 24th August, 1998.
(Dictated in the Open Court)



(R. RANGARAJAN)
MEMBER (ADMN.)


D. R. 21/8/98

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8/10/98

(X)

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 PARAMESHWAR :
M(J)

DATED: 24/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.NG.

in

C.A. NO. 435/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
भारत / DESPATCH

24 SEP 1998

हैदराबाद ब्याचपीट
HYDERABAD BENCH