

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 08th day of April, 2011

ORIGINAL APPLICATION NO. 03/2007

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Jag Mohan Meena son of Shri Gangadhar ji Meena aged about 41 years, resident of D-12, Malviya Nagar, Alwar and presently working as Office Assistant, Office of Senior Superintendent of Post Offices, Alwar Postal Division, Alwar.

.....Applicant

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, Sansad Marg, New Delhi.
2. Union of India through its Secretary to the Government of India, Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pension, North Block, New Delhi.
3. Principal Chief Post Master General, Rajasthan Circle, Jaipur.
4. Senior Superintendent of Post Offices, Alwar Postal Division, Alwar.

.....Respondents

(By Advocates: Mr. Vijay Saini proxy to Mr. S.S. Hassan)

ORDER (ORAL)

By way of this OA, the applicant has prayed that he be declared qualified in the examination of Junior Accounts Officer cadre taking into consideration of marks obtained by him vide Annexure A/5 by quashing letter dated 15.11.2006 (Annexure A/1) with all consequential benefits. He has further prayed that respondents be directed to modify the provision of OM dated 03.10.2000 (Annexure A/6) to the extent that provisions of OM be given effect with effect from 22.07.1997 instead of date of its issuance. It is not disputed that



special examination for JAO Part I Exam passed SC/ST candidates was scheduled to be held in the year 1995 and as per the court orders; the said examination was made open for the employees of all categories and was ultimately held from 23rd to 25th July, 1997. The present applicant had also appeared in the examination but as he did not qualify in the examination, he could not find place in the result declared vide DG Post, New Delhi letter dated 10.03.1998. Therefore, the applicant filed a representation dated 24.10.2005 (Annexure A/7) to the Dy. D.G. (Exam), Office of the DG Post, New Delhi for declaring him successful in the above examination under reservation in promotion on the basis of prescription of lower qualifying marks/lesser standard of evaluation for SC/ST candidate that existed prior to 22.07.1997 which were withdrawn with effect from 22.07.1997 and subsequently restored by the Government of India but the same were made effective only with immediate effect i.e. from 03.10.2000 and as such was not applicable to the cases that had arisen between 22.07.1997 to 02.10.2000.

2. The aforesaid examination was held with effect from 23.07.2007 to 25.07.1997 and the representation of the applicant was rejected by the competent authority as conveyed vide letter dated 15.11.2006 (Annexure A/1) against which the applicant has filed the present OA before this Tribunal.

3. JAO Examination (Post) consists of two parts viz. Part I and Part II. After qualifying both the Parts, a candidate becomes eligible for promotion to the JAO cadre. As per rule (iv) of Section II of Appendix 24 of the Postal Manual Volume IV (Annexure R/2), the minimum



number of marks required to qualify each part of the department examination prescribed for JAO service is 40% in each subject and 45% in the aggregate provided that a minimum of 40% is also secured separately in the practical papers answered with the aid of books.

4. Relaxation in qualifying standard was also available to the SC/ST candidates. As per the Department of Personnel OM dated 23.12.1970 (Annexure R/3) read with DOP&T New Delhi OM dated 17.07.1971 (Annexure R/4), the qualifying standard prescribed for SC/ST candidates were 33% in each paper and 38% in aggregate. But in accordance with the verdict of the Hon'ble Supreme Court in the case of **S. Vinod Kumar vs. Union of India**, reported in JT 1996 (8) SC 643, the provisions of lower qualifying marks/ lesser standard of evaluation prescribed for SC/ST candidates were withdrawn by the Government of India, Ministry of Personnel, New Delhi OM dated 22.07.1997.

5. By way of 82nd amendment to Article 335 of the Constitution, relaxation/concession in the matter of promotion for SC/ST candidates by way of lower qualifying marks/ lesser stands of evaluation that existed prior to 22.07.1997 were restored with effect from 03.10.2000 vide Government of India, Department of Personnel & Training, New Delhi letter dated 03.10.2000.

6. Considering this aspect that the relaxation/concession in the matter of promotion for SC/ST candidates was available up till 22.07.1997 in view of the observations made by the Hon'ble Supreme Court in the case of **S. Vinod Kumar vs. Union of India** (supra). By



way of amendment in the Constitution, the same was again restored with effect from 02.10.2000 with immediate effect. The case of the applicant fall between the period 22.07.1997 to 02.10.2000, as the examination was held from 23.07.1997 to 25.07.1997 and on the relevant point of time, the benefit of prescription of lower qualifying marks/ lower standard of evaluation for SC/ST candidates was not in existence. Thus the applicant was not declared successful in the examination of JAO.

7. Thus we find no merit in the OA filed by the applicant and the same is dismissed being devoid of merit with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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