

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER:

9/5/2022

OA No. 40/97

Rohitash Kumar Sharma son of Shri Pokar Mal Sharma aged about 30 Years, resident of Village & Post Kuharwas District Jhunjhunu. Presently working as Extra Departmental Delivery Agent Khurwas Sub Post Office.

...Applicant.

VERSUS

1. Union of India through Secretary to the Government of India, Department of Posts, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Post Master General, Rajasthan Western Region, Jodhpur.
4. Superintendent of Post Offices, Jhunjhunu Postal Division, Jhunjhunu.
5. Jagdish Prasad Sepoy No 8372950 F C/o Lt. Manohar Ram  
2 CBPO C/o 56 APO.

....Respondents.

Mr. C.B. Sharma, Counsel for the applicant.

Mr. Arun Chaturvedi, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. H.O. Gupta, Member (Administrative)

ORDER

PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL)

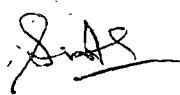
In this OA filed u/s 19 of the Administrative Tribunal's Act, applicant makes the following prayers:-

*S. K. Agarwal*

- (i) to quash the order at Annexure A/1 to the extent of result of respondent No. 5 treating him as departmental candidate in departmental quota.
- (ii) to direct the respondents to treat respondent No. 5 and others who are on deputation to APS eligible in departmental quota and not in outsider quota for E.D. Agents.
- (iii) to direct the respondents to declare result of unfilled one post in departmental quota from E.D. Agents of the division.
- (iv) to quash and set aside Annexure A/3 and to direct the respondents to communicate marks obtained by the applicant in pursuance of his request.

2. The main grievance of the applicant in this OA is that respondents have allowed some Group 'D' official who are on deputation to Army Postal Services against outsider quota meant for ED staff, which is against the rules/regulations on the subject.

3. The applicant appeared in the examination for promotion for the post of Postman cadre in the year 1995 in pursuance of <sup>Notification dt.</sup> 24.3.95, and permission to appear in the examination was granted to the applicant vide Memo dated 1.9.95. The applicant again appeared against the vacancy meant for outsider quota in the year and permission to appear was granted to him vide order dated 23.5.96. It is stated that respondent No. 4 allowed <sup>meant</sup> some of Group 'D' officials on deputation against the quota for E.D. Agents and due to this arbitrary and illegal action of respondent No. 4, Shri Jagdish Prasad, respondent No. 5, has been declared passed and promoted to the post of Postman Cadre vide order at Annexure A/1 against the outsider quota meant for ED Agents. It is stated that due to this arbitrary, illegal and unjust action of respondent No. 4, applicant is being deprived of his legitimate right of selection in the said examination. It is stated that applicant requested to communicate the marks obtained by him in the examination vide order dated 10.10.96 but the applicant was informed that there is no provision. It



is stated that applicant stand in the merit if the candidature of the officials on deputation to APS be treated in departmental quota instead of outsider quota meant for ED Agents. Therefore, applicant is entitled to promotion on the basis of vacancy remained unfilled in the departmental quota as per the existing rules.

4. Reply was filed. It is stated in the reply that applicant is not entitled to promotion as per the existing rules and regulations. The applicant neither comes in merit nor in seniority. Therefore, action of respondent No. 4 is neither arbitrary nor illegal and applicant has no case.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The rules for promotion of Postman is governed by Statutory Rules namely; Indian Posts and Telegraphs (Postmen/Village Postman and Mail Guards) Recruitment Rules 1989, which reads as follows:-

"Col. II - Method of recruitment -

(1) 50% by promotion failing which by ED Agents, on the basis of their merit in the Departmental Examinations.

(2) 50% by ED Agents of the recruiting Division or unit in the following manner namely:-

(i) 25% from among ED Agents on the basis of their seniority in service and subject to their passing the Departmental Examination, failing which by ED Agents on the basis of merit in the Departmental Examination.

(ii) 25% from amongst ED Agents on the basis of their merit in the Departmental examination.

Col. 12 - In cases of promotion

(1) Promotion of Group 'D' Officials who have put in

*Sudhakar*

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three years of regular and satisfactory service on the closing date for receipt of applications through a Departmental examination.

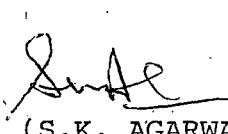
- (2) EDAs through a Departmental Examination.
- (3) Direct recruitment through a Departmental examination."

7. The plain reading of these Rules suggests that 50% of the total number of vacancies has to be filled by promotion of Group 'D' (Class IV), failing which these 50% vacancies can be considered for being filled by ED Agents on the basis of their merit in the departmental examination. In the instant case, Shri Jagdish Prasad, respondent No. 5, who was a Group 'D' official was promoted against the outsider quota meant for ED Agents, which is inadmissible and contrary to the rules. Looking to the facts and circumstances of this case, if Shri Jagdish Prasad, respondent No. 5, had not been considered for promotion against the quota meant for ED Agents, applicant could have been considered. Therefore, to this extent, applicant makes a case in his favour.

8. In view of the above all, this OA is allowed and order (Annexure A/1) is modified to the extent that respondents shall not treat respondent No. 5 and others who are on deputation to APS in outsider quota meant for ED Agents and consider the applicant on the post of Postman against the outsider quota meant for ED Agents within two months from the date of receipt of copy of this order. If the applicant is found in merit for promotion, he shall be promoted. Applicant shall also be entitled to consequential benefits, if any. No order as to cost.

  
(H.O. GUPTA)

MEMBER (A)

  
(S.K. AGARWAL)

MEMBER (J)