

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 246/01
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet.....Pg. 01 to 03
2. Judgment/Order dtd. 26-4-02 Pg. to
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....Pg. 1 to 42
5. E.P/M.P.....Pg. to
6. R.A/C.P.....Pg. to
7. W.S.Pg. 1 to 10
Add 1-9
8. Rejoinder.....Pg. to
9. Reply.....Pg. to
10. Any other Papers.....Pg. to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....


SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::::::::: GUWAHATI

ORDER SHEET

original APPLICATION NO246.....OF 2001.

Applicant (s) S. Somalini Devi

Respondent (s) Union of India

Advocate for Applicants (s) B.K. Sharma, S. Sharma, B.K. Talukder
Min D. Das

Advocate for Respondent (s) case.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in the Coordination Petition is filed not filed vide M. P. No. C. F. for Rs. 50/- deposited vide IPO/BD No. 69.792.425 Dated...../..... Dy. Registrar.</p>	23.07.01	<p>Issue notice on the respondents, returnable by 4 weeks. Mr. A. Deb Roy, Sr. C.G.S.C. accepts notice on behalf of the respondents. List on 27-08-2001 for order.</p>
<p>Notice prepared and sent to DAs for issuing the respondents No 1 to 3 by Regd AID vide D/Mo 2874/15 2876 dtd 1/8/01 dx 397/01 No reply has been filed. By 26.9.01</p>	<p>bb 27.8.01 mb 27.9.01</p>	<p>List on 27/9/01 to enable the respondents to file reply.</p>
		<p>List on 19/11/01 to enable the respondents to obtain instructions or to submit written statement if any.</p>

This application is in form but not in the Coordination Petition is filed not filed vide M. P. No. C. F. for Rs. 50/- deposited vide IPO/BD No. 69.792.425
Dated...../.....
Dy. Registrar.

Issue notice on the respondents, returnable by 4 weeks. Mr. A. Deb Roy, Sr. C.G.S.C. accepts notice on behalf of the respondents.

List on 27-08-2001 for order.

Member
Member

Vice-Chairman
Vice-Chairman

List on 27/9/01 to enable the respondents to file reply.

Vice-Chairman
Vice-Chairman

List on 19/11/01 to enable the respondents to obtain instructions or to submit written statement if any.

Member
Member

Vice-Chairman
Vice-Chairman

✓
No. Reply has been
filed.

②
O.A. 246 of 2001

19.11.01

Though time was granted to the respondents either to file objection/written statement or to submit their instructions, the respondents has failed to do either of it. List the case for admission after two weeks to enable the respondents to file written statement. Endeavour shall be made to dispose of the application on that date itself.

List on 7.12.2001.

Member

Vice-Chairman

trd

No. W/S has been filed.

7.12.01

Heard Sri S. Sarma, learned counsel for the applicant.

The application is admitted. Call for the records.

List on 10.1.02 for order.

Member (J)

Member (A)

mb

No. Written Statement 10.1.02
has been filed.

No written statement so far been filed.
List on 11.2.2002 for order.

Member

Vice-Chairman

mb

11.2.02

List on 18.3.2002 to enable the respondents to file written statement.

13.2.2002

W/S has been
submitted by the
Respondents.

18.3.02

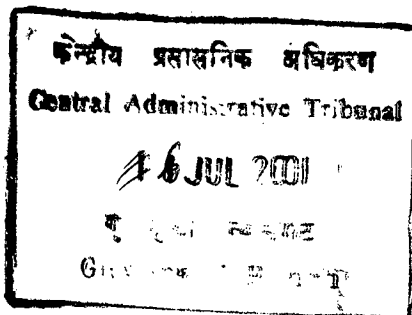
Written statement has been filed. The case may now be listed for hearing on 4.4.2002. The applicant may file rejoinder, if any, within three weeks from today.

Member

Vice-Chairman

3
O.A 246 / 2001

Notes of the Registry	Date	Order of the Tribunal
<p>1.4.2002</p> <p>W/s submitted the respondents.</p> <p>→</p>	<p>4.4.02</p> <p>lm</p>	<p>Mr. S. Sarma learned counsel for the applicant prays for adjournment on the ground that he likes to reconstruct the matter. Mr. A. Deb Roy, Sr. C.G.S.C. has no objection. Prayer is accepted. List on 26.4.02 for hearing.</p> <p>K. K. Sharma Member</p>
<p>ad bop</p> <p>Handwritten 6/5/2002</p> <p>915</p>	<p>26.4.2002</p>	<p>This case is squarely covered by O.A.No.87 of 2000 disposed of on 23.2.2001 pertaining to absorption of surplus Extra Departmental Agents of Manipur Division. The present applicant is similarly situated like that of the three applicants in O.A.No.87/2000.</p> <p>In the light of the aforementioned O.A. the respondents are directed to consider also the case of the applicant for appointment on promotion to the post of Postman in any Division of the Region, keeping in mind the norms and policy decisions.</p> <p>We have heard both Mr S. Sarma, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C.</p> <p>The application is accordingly allowed. No order as to costs.</p> <p>K. K. Sharma (Member) D. N. Chowdhury (Vice-Chairman)</p>



6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 246...of 2001

Between

Smt. S. Somalini Devi.. ... Applicant.

AND

Union of India & ors Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 17
2.	Verification	18
3.	Annexure-1	19, 20
4.	Annexure-2	21.
5.	Annexure-3	22
6.	Annexure-4	23
7.	Annexure-5	24 to 28
8.	Annexure-6	28 to 30
9.	Annexure-7	31, 32
10.	Annexure-8	33
11.	Annexure-9	34 to 36
12.	Annexure-10	37 to 39
13.	Annexure-11	

Filed by : S. Sarma Advocate.

Regn. No. :

File : soma

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

O.A.No. of 2001

BETWEEN

Smt. S. Somalini Devi, ED Stamp Vendor,
Lamlong Bazar, SO.

... Applicant

- AND -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication, New Delhi.
2. The Chief Postmaster General, North
Eastern Circle, Shillong-793001.
3. The Director Postal Services,
Manipur, Imphal-795001.

.....Respondents.

DETAILS OF THE APPLICATION.

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS
MADE:

That the present application is filed against the arbitrary order of rejection of claim of the above named applicants, for their absorption against the existing vacancies in the cadre of Postman anywhere in N.E.Circle, by the Chief P.M.G. N.E. Circle, Shillong vide memo No.Staff/18-62/98 (Con) Dated 15.11.99, which is contrary to the instructions contained in D.G. Posts Letter No 44-44/82-SPB.I, dated 7.4.89 and other Rules/ guidelines mentioned in the following paras "Facts of the case". This application is also directed against the action of the respondents in not implementing the Judgment and order dated 17.8.99 passed in O.A. No 243/99 passed by the Hon'ble Tribunal.

6

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant was appointed as Extra Departmental Agents in the Department of Posts in Manipur Postal Division in one of the various categories of Extra Departmental Posts, such as Extra Departmental Stamp Vendor (here in after called "EDSBV") The above mentioned applicant was appointed in the respective ED-Post by competent appointing authorities in accordance with EDAs(C&S) Rules, 1964.

4.2. That the Respondent No.2 viz.Chief Postmaster General, N.E.Circle, Shillong (hereinafter called "CPMG/Shillong") vide letter No.Staff/18-68/98 dated 20.11.98, circulated the approved list of divisionwise vacancies in N.E.Circle and also announced to hold the Examination for promotion/recruitment to the cadre of Postman from Gr-D officials and Extra Departmental Agents on 17.01.99.

A copy of CPMG/Shillong letter No.Staff/18-68/98 dated 20.11.98 is enclosed as Annexure-A/1.

4.3. That after the receipt of the said letter dated 20.11.98, (Annexure-A/1), the Respondent No.3 viz.Director Postal Services, Manipur, Imphal, called for application

a

from the willing and eligible candidates to appear in the
aforesaid promotion examination vide letter No.B-
4/Exam/Postman/98 dated 8.12.98.

A copy of DPS/Imphal letter No.B-
4/Exam/Postman/98 dated 8.12.98 is enclosed as
Annexure-A/2.

4.4. That, the applicant being willing and eligible to
appear in the said examination, forwarded her application to
the respondent No 3 as per the prescribed application .

4.5. That, as per the item No 13 of the application
form, a candidate who applied for taking part in the postmen
examination should invariably indicate the names of
division according to his/ her choice so that he or she may
be allotted to the divisions of his or her choice in the
order of merit and in the order of his or her preference
subject to availability of vacancies. Accordingly the
applicant too indicated her choice, and it is noteworthy to
mention here that divisions referred by the applicant was
Meghalaya and Arunachal Division.

A copy of the application format circulated by
the respondents No 3 is enclosed as Annexure-
A/3.

4.6. That the respondents after receipt of the said
application form from the applicants which were correct and
complete in all respect, permitted her to appear in the said
Postmen Examination which was held at Imphal Centre on
17.1.99.

4.7. That the Postmen Examination consists of 3 (three)
separate papers namely (i) Making entries in Postman Book
(Paper - 1), (ii) Arithmetic (Paper-2) and (iii) Dictation
(Paper 3) and the applicants appeared and did fairly well in
all the three papers in the Postmen Examination held at

10
Imphal Centre on 17.1.99.

4.8. That as per the letter issued by the Director General of Posts vide No 44-44/82 SPB I dated 7.4.89, total marks in each paper in the said Postmen Examination is 50 and those who secures 45% (i.e. 22.5 marks) each in all the three papers , are eligible for absorption against the unfilled vacancies in other divisions of the recruiting circle / region.

A copy of the said letter dated 7.4.89 is enclosed as Annexure A/4.

4.9. That, after the examination was over, the vacancies in Postman Cadre ought to have been filled up by the Respondent No.3 in accordance with D.G. Posts letter No.44-44/82-SPB.I dated 7.4.89, read with D.G. Posts Notification No.44.31/87-SPB.I dated 6.7.1989.

A photostat copy of D.G. Posts Notification No.44-31/87-SPB.I Dated 6.7.1989 is enclosed as Annexure-5.

4.10. That instead of following the instruction contained in Annexure-4, the Respondent No.2, viz Chief PMG/Shillong, published the result of qualified/successful candidate vide memo No.Staff/18-3/76/Rlg/Corr. dated 28.5.99, in total violation of instructions contained in Annexure-4 and 5.

A photostat copy of CPMG / Shillong memo. dated 28.5.99 is enclosed as Annexure-6.

4.11. That, the applicant represented to the Respondent No.2, viz.Chief PMG/Shillong so that the irregularities may immediately be rectified and the applicant be accommodated in any other postal \Divisions against the available vacancies. The applicant, also requested in her respective

representation that the marks secured by her may be communicated in accordance with the provisions of Rule-13 of Appendix-37 of P&T Man.Vol.IV.

4.12. That, however, the applicant did not get any reasonable response from the Respondent No.2 even after repeated reminders, and as such the applicant filed O.A.No.243/99 before the Hon'ble Tribunal, along with four other similarly situated persons. The Hon'ble Tribunal, after perusal of the said O.A. No.243/99, passed an order dated 17.8.99 that the representations of the applicants be disposed of by the Respondent No.2 within a period of 2 months from the date of receipt of order.

A copy of Order dated 17.8.99 passed in O.A.No.243/99 is enclosed as Annexure-7..lm0

4.13. That, the aforementioned order of the of the Hon'ble Tribunal was immediately delivered to the Respondent No.2 by Regd/Speed Post letter booked on 19.8.99 by the counsel of the applicants and the same was received by the office of the respondents in the last week of Aug/1999. But, the respondent No.2 intentionally failed to comply the order of the Hon'ble Tribunal within the time limit fixed therein.

A copy of letter of the counsel of the applicants dated 19.8.99 is enclosed as Annexure-8.

4.14. That, the Respondent No.2, however, communicated the marks secured by the applicant through Director Postal Services, Manipur, Imphal i.e. Respondent No.3 and as per the marks communicated through DPS/Imphal letter No.B-4/Exam/Postman/99 dated 27.8.99, the applicant have secured

12

not only the qualifying marks three papers, but very high marks in these papers and thereby the applicant is fully eligible for absorption against available unfilled vacancies in the Postman cadre anywhere in N.E.Circle in accordance with the provisions of D.G., P & T No.44-44/82-SPBI dated 7.4.89.

The copies of the letter dated 27.8.99, communicating the marks secured by the applicants, are serialwise enclosed as Annexure-9.

4.15. That, the Respondent No.2 after consent pressure and repeated reminders from applicant, lastly disposed of the representations vide his memo No.Staff/18-62/98(CON) dated 15.11.99. But the said orders of the respondent No.2 are itself fully ill-motivated and with malafide intention which were already conceived in the mind of the respondent No.2 right at the time when he published the result of Examination in violation of D.G. Posts letter No.44-44/82-SPB.I dated 7.4.89.

A copy of the order dated 15.11.99 is enclosed as Annexure-10.

4.16. That the applicant begs to state that the vacancy position shown by the respondents in Annexure-1 letter dated 20.11.98 is as follows;

Postman outsider : Nil

Postman Departmental: U/R= 02

O/C= Nil

SC= 01

ST= 01

OBC= Nil

Total= 04 (Four),

19

In view of the aforesaid factual position the contentions of the respondents itself in the impugned order is contrary to each other.

4.17. That the applicant begs to state that as per letter dated 6.7.89 the vacancies should have been filled up as follows:-

- (i) 50% of total vacancies should be ear-marked for Departmental Candidates; and
- (ii) of the remaining 50% of total vacancies, 25% should be ear-marked for EDA candidates on merit and another 25% for the EDA candidates on the basis of seniority in ED-Cadre subject to their passing in the Promotion examination.

But the respondents have failed to take into consideration that aspect of the matter while issuing the letter dated 20.11.98 and her claim justifying the action through the letter dated 15.11.99 is not tenable and their actions are liable to be set aside and quashed.

4.18. That the respondents in the impugned letter dated 15.11.99 has admitted the fact that the results were declared by the Circle Office in accordance with the administrative convenience, but as per the letter dated 7.4.89 the aforesaid action of the respondents are illegal. The respondents No 2 with a malafide intention has issued the said order violating the norms laid down in the said letter dated 7.4.89.

4.19. That the respondent No 2 while communicating the vacancies to the respondents No 3 had not at all made any earmarking such as (i) Departmental Quota (ii) (a) Outsider Quota (on merit) and (ii) (b) Outsiders quota (on seniority). Hence the contentions of the respondents made in the impugned order that the break and appointment of the

said vacancies were done in accordance with law, is totally baseless and same are liable to be set aside and quashed.

4.20. That the applicant begs to state that the respondent No 2 has willfully delayed the communication of the results of the applicant only to temper the documents and manipulations so that the applicant can be harassed who was the was the single quotidian of all the records. Therefore the said respondents could create a camouflage in the selection processes and could appoint his blue eyed boys.

4.21. That the applicant begs to state that at the time of her submission of the application format, she quoted the Division as per her choice well before the last date of submission of application. But none of the respondents authorities have completed the merit list in accordance with preference and at no point of time objections have been made in this regard. There are two divisions in the N.E. Circle but the respondents have not at any point of time objected that aspect of the matter only to turn down the legitimate claim of the applicant.

4.22. That the applicant begs to state that the contentions of the respondents regarding two divisions namely Chief Postmaster Circle and Postmaster General Circle, are totally baseless and ill founded, because of the fact firstly, that the entire selection processes including announcement of vacancies to publication of results were done by the Chief Postmaster General without consulting the Postmaster General, secondly in regard to transfer of Postal Assistance from so called one Division to another is done only by the Chief Postmaster General and no approval is necessary from Post Master General. Had there been any such Post Master Region, certainly the approval of the Post

15

Master General would have been required for such transfer. For Example the transfer order of Smt. L.Changson from Manipur Division to Mizoram Division was only approved by the Chief Postmaster General not by the Postmaster General, thirdly in the transfer matters of Inspector Cadre or S/B Central Organisations are done as whole by the Chief Post Master General, without any approval by the Postmaster General, as such there is no such demarcation. On the other hand the transfer and postings of the APOs and SIPOs are done only circle basis not on region basis.

The applicant prays for a direction from the Hon'ble Tribunal to the respondents for a direction to produce all the relevant documents at the time of hearing of the case.

4.23. That, the applicant begs to state that challenging the action on the part of the respondents in not implementing the judgment and order dated 17.8.99 passed in O.A.No.243/99, the other co-applicants namely, Sri T.J Singh, Md Tahir Ali and Sri N.Mohesh Singh, moved the Hon'ble Tribunal by way of filing O.A No 87 of 1999. In the said O.A (O.A No 87 of 1999) the basic contention of the applicants are regarding the order dated 15.11.99, i.e, the order by which their claims have been rejected. The reliefs sought for the said applicants are as follows;

" To set aside and quashed the result published by the Respondent No.2 vide Memo No.Staff/18-3/76/RLG/Corr. dated 28.5.99, be treated as canceled as because the same was published in violation of instructions contained in D.G.Posts letter No.44-44/82-SPE.I dated 7.4.89.

That the vacancies approved by the Respondent No.2 in respect of Postman cadre for the year 1998 for Imphal i.e. Manipur Division vide CPMG/Shillong letter No.Staff/18-66/98 dated 20.11.98, be ordered to be treated as NULL AND

16

VOID, as because the same did not contain the components of Out Sider Quota and Departmental Quota in accordance with D.B.Posts Notification No.44-31/87-SPB.I dated 6.7.89.

That the order of the Respondent No.2 issued vide memo No.Staff/18-62/98(CON) Dated 15.11.99, be set aside and quashed and be ordered to be treated as ULTRA-VIRES and the Respondent No.2 be directed to absorb the applicants in the Postman cadre against the unfilled vacancies available in any other division in the whole of N.E.Circle in accordance with the order of preference quoted by the applicants in the application form with all consequent service benefits.

That the applicants be allowed the benefit of pay & allowances, seniority etc. from the date on which the last Ed-Official, who declared to have been qualified assumed his duties as Postman as a result of the result published by the Respondent No.2.

The Hon'ble Tribunal was pleased to dispose of the said O.A vide Judgment dated 23.2.00 (Annexure-11).

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that as shown in Annexure-A to CPMS/Shillong letter No.Staff/18-68/98 enclosed as Annexure A/2 to this present application, the vacancy position as declared in respect of Imphal was as under :-

Postman outsider : Nil

Postman Departmental: U/R= 02

O/C= Nil

SC= 01

ST= 01

OBC= Nil

Total= 04 (Four)

Therefore, the contention of the Respondent No.2 as in para-2 of his memo No.Staff/18-62/98(CON) dated 15.11.99,

X

the instructions contained therein, and as such there was a serious injustice and more than that a hidden malafide intention in the part of the Respondent No.2 when the instruction contained in the aforesaid D.G. Posts letter enclosed as Annexure-A/6 to this application were intentionally arbitrarily violated by the Respondent No.2.

5.4. That the Respondent No.2, while communicating the vacancies to Respondent No.3, had not at all made any earmarking such as (i) Departmental Quota, (ii)(a) Outsider Quota (on Merit) and (ii)(b) Outsider Quota (on Seniority). Therefore, the contention of the Respondent No.2(iii) of his memo enclosed as Annexure-A/1 to this present application, that the break-up and appointment of 4 (four) vacancies were done in accordance with rules, is totally baseless.

5.5. For That the Respondent No.2, had not at all reasoned as to why the marks were not communicated to the applicants immediately on receipt of their respective requisition along with the proof of payment of requisite fee. This clearly proves that the communication of marks were intentionally delayed to hamper and manipulate the related documents which are available in the single custody of the Respondent No.2. Therefore, the whole process of promotion was carried out full fledged and possibly manipulated by the Respondent No.2 as proved by his own action and attitude. Therefore there was proved injustice to the applicant during the whole process of recruitment/promotion.

5.6. For that the applicant while submitting her application for Postman Examination, 1998 scheduled to be held on 17.01.99 duly quoted the divisions of her preference well before the last date for submission was over. But, neither the Respondent No.3 who received the application nor

8

the Respondent No.2 who as per his own statement compiled the merit list in the order of preference of the applicant did not at all made any objection as regards quoting of name of the divisions in N.E. Circle on the ground that there are 2 (two) Regions in N.E.Circle. therefore, the reason stated by the Respondent No.2 that there are 2(two) Regions in N.E. is a totally new found one which has been invented only with a malafide intention to turn down the legitimate claim of the applicants.

5.7. For that the contention of the Respondent No.2 that there are two regions in N.E. Circle is totally baseless, wrong and misleading as because :-

(a) The entire recruitment at affairs of postman cadre right from the time of announcement of vacancies till the publication of results of all postal Division was done by CPMG alone as a circle as a whole and no where there was any mention of PMG Region at all.

(b) That the transfer of P.A. from one Division to other in the whole Circle is done only with approval of CPMG and no where there is either mention of PMG Region nor there is any interference of PMG . An example the transfer of Smti L.Changson, P.A. Manipur, Division to P.A. Mizoram Division was approved by the Chief PMG/Shillong and not by the PMG/Shillong. If there is a PMG-Region in N.E. Circle, the said transfer ought to have been approved by the PMG of the Region and not at all by the CPMG of the Circle.

(c) In similar cases the transfer, posting of inspector Cadre or Savings Bank Central

191

Organisation are done as a whole for the circle only by CPMG/Shillong and till today there is no instance of any such demarcation of region of PMG as motivated now only while arbitrarily rejecting and disposing of the claims of applicants, making a different yard sticks to measure the same area in case of E.D. employees.

(d) The transfer and posting of ASPOs and SDIPOs in N.E.Circle is done only on Circle basis and no Regional jurisdiction is either demarcated or maintained in this respect as in other regions and other circles. Therefore the Respondent No.2 can not choose a different treatment to the ED Officials in N.E.Circle.

(e) There was a history of recruitment of Postman cadre officials from Nagaland Division in the year 1991-92 and mass allotment of excess recruited officials to Arunachal Pradesh Division in the same period. If Nagaland Division falls under PMG's Region and Arunachal Pradesh Division falls under Chief PMG's region, how the above stated fact was possible in the year 1991-92 . therefore, the claim of the Respondent No.2 is totally misleading.

That the Respondent No.2 may kindly be asked/directed to produce all the concerned files relating to above facts at the Hon'ble CAT/Guwahati so that the contention of the applicants from (a) to (e) above may be pursued by the Hon'ble Tribunal.

5.8. For that the communications between the Respondent

No.3 and Respondent No.2, as available in the enclosed Annexures to this present application, themselves prove that there is no intermediary office such as the Office of the Postmaster General, N.E.Circle, Shillong in the whole of N.E.Circle. Therefore when there is no office of the Postmaster General anywhere in N.E. Circle, the contention of the Respondent No.2 that there are 2 Regions in N.E.Circle is totally misleading and false.

5.9. For that, even the C.O./Shillong Memo No.Staff/18-62/98(CDN) Dated 15.11.99 enclosed as Annexure-A/1 to this present application, has been issued as per the approval of the Chief PMG and it does not speak anything about the opinion or approval of PMG, at all. Therefore, existence of 2 (two) regions in N.E.Circle is only a self made misleading information by the Respondent No.2.

5.10. For that the copies of Telephone Directory of Senior Officers issued by the Department of Posts corrected up to July/1994 and Telephone Directory of N.E.Circle enclosed herewith themselves prove that there is no region in N.E.Circle. Therefore, the contention of the Respondent No.2 that there are 2 (two) Regions in N.E.Circle is totally false and misleading.

The applicant craves leave of the Hon,ble Tribunal to produce the telephone directory of the Dept of Posts and Telephone at the time of hearing of the case.

5.11. For that, the applicant due to the intentional and willful, malafide act of the Respondent No.2 have not yet allotted to other divisions in N.E.Circle for absorption in the cadre of Postman against the available vacancies and thereby have been deprived for the benefit of promotion and appointment in a higher care, while other candidate who were declared qualified by the respondent No.2 in the first

instance itself were already serving in the Postman Cadre. Therefore, an irreparable damage has been caused to the applicant which has affected the service carrier, seniority and financial benefits to the applicant. Hence, any delay in issuing directions to the respondent No.2 would further cause similar irreparable damage to the applicants.

5.12. For that the action of the Respondent No.2 to turn down the claims of the applicant is arbitrary and totally violative of principles laid down by the Departmental Rules as well as principles of natural justice

5.13. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

That the applicant declares that the only remedy available to the applicant in the instant case was to represent her case to the Respondent No.2, which the applicant has exhausted, with the result of turning of the claims of the applicant by the Respondent No.2 vide his Memo No.Staff/16-62/98(CON) dated 15.11.99.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above,

✓
7

the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicants:-

8.1. To set aside and quashed the result published by the Respondent No.2 vide Memo No.Staff/18-3/76/RLG/Corr. dated 28.5.99, be treated as canceled as because the same was published in violation of instructions contained in D.G.Posts letter No.44-44/82-SPB.I dated 7.4.89.

8.2. That the vacancies approved by the Respondent No.2 in respect of Postman cadre for the year 1998 for Imphal i.e. Manipur Division vide CPMG/Shillong letter No.Staff/18-68/98 dated 20.11.98 , be ordered to be treated as NULL AND VOID, as because the same did not contain the components of Out Sider Quota and Departmental Quota in accordance with D.G.Posts Notification No.44-31/87-SPB.I dated 6.7.89.

8.3. That the order of the Respondent No.2 issued vide memo No.Staff/18-62/98(CON) Dated 15.11.99, be set aside and quashed and be ordered to treated as ULTRA-VIRES and the Respondent No.2 be directed to absorb the applicant in the Postman cadre against the unfilled vacancies available in any other division in the whole of N.E.Circle in accordance with the order of preference quoted by the applicant in the application form with all consequent service benefits.

8.4. That the applicant be allowed the benefit of pay & allowances, seniority etc. from the date on which the last Ed-Official, who declared to have been qualified assumed his duties as Postman as a result of the result published by the Respondent No.2.

8.5. Cost of the application.

8.6. That the applicant be allowed any other benefit(s)

23

as the Hon'ble Tribunal may deem fit, as be granted to the applicant.

9. INTERIM ORDER PRAYED FOR:

Pending final decision on this present application, the applicant prays that the Respondents may kindly be directed not to fill up any vacancy in the Postman Cadre in the whole of N.E.Circle.

10.

11. PARTICULARS OF THE I.P.O.:

- 1. I.P.O. No. : 66 792425
- 2. Date : 11/5/2001
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Smti. Soram Somalini Devi, daughter of S. Tombi Singh, aged about 36 years, resident of Sagolband Salam, Leikai, P.O. & P.S. Imphal, at present working as Extra Departmental Stamp Vendor, Lamlong Bazar, SO Manipur, do hereby solemnly affirm and verify that the statements made in paragraphs are true to my knowledge and those made in paragraphs are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 11th day of June of 2001.

S. Somalini Devi

6 sets

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL : N.E. CIRCLE : SHILLONG

No. Staff/18-68/88

Dated Shillong, the 20-11-88

To

- 1) Shri Lalhluna, D.P.S., Imphal.
- 2) Shri F.P. Solo, D.P.S., Kohima.
- 3) Shri B. Sarangi, D.P.S., Agartala.
- 4) Shri R.K.B. Singh, D.P.S., Itanagar.
- 5) Shri V.K. Tiwary, D.P.S., Aizawl.
- 6) Shri A.R. Bhowmik, S.S.P.Os, Shillong.
- 7) Shri S.C. Deb Barma, S.P.Os, Dharmanagar.

Sub: Examination for promotion/recruitment to the cadre of Postman from Gr. 'D' officials and EDAs to be held on 17-01-1989 (Sunday).

This is to intimate that the above examination will be held on 17-1-1989. You are requested to kindly obtain the applications of the eligible candidates in accordance with the recruitment rules upto the number of candidates admissible in accordance with the number of vacancies which are available in the respective quotas for departmental candidates and outsider (EDAs).

2. The last date for receipt of applications in your office may be fixed on 18-12-88.

3. A list of the candidates permitted by you to appear in the examination may kindly be sent so as to reach Circle Office not later than 28-12-88. In case no list is received from your Divisions within the stipulated date, it will be presumed that no candidate from your Division.

4. The list of candidates showing community, date of birth, educational qualification, language to answer, roll no. belonging to different categories viz. Group 'D' and EDAs may kindly be prepared and sent correctly. 25% of the vacancies of Postman shall be filled up from amongst EDAs with a minimum of 15 years of service on the basis of their seniority, failing which by the EDAs on the basis of Departmental examination.

5. A statement of vacancy position of each Division is furnished in Annexure-A.

6. The receipt of this letter may kindly be acknowledged by first post.

Signature
(BARKILIRA)

Asstt. Postmaster General (S)
For Chief Postmaster General,
N.E. Circle, Shillong.

Enc: As above.

Attest
[Signature]

ANNECRE (A)

VACANCY POSITION OF POSTMAN

Sl. No.	Name of Division	Postman						Total	Departmental					Grand total	2% of total	On Excess vacancy
		U/R	OC	SC	ST	OBC	Ph. handi capped		U/R	OC	SC	ST	OBC			
1.	Agartala	1			1			2	6					6	8	8
2.	Dharmnagar		1		1			2		2	1			3	5	5
3.	Aizawl	1			1			2	1			1		2	1	4
4.	Kohima		1					1		1	1			2	1	3
5.	Shillong	8				4	1	13	14					14	7	27
6.	Itanagar		4	1		2		7	5	2				7	14	14
7.	Imphal							2		1	1			4		4
Total:														65		65

26

Department of Post:India.
Office of the Director Postal Services:Manipur:Imphal.
795001.

No. D-4/Exam/Postman/98 Dated at Imphal the-8.12.98.

To,

1. The Postmaster, Imphal P.O.
2. The ASPOs, 1st Sub-Divn, Imphal.
3. All the SDPOs, Imphal Divn.
4. All the SIMs in Manipur Divn.

Sub:- Examination for promotion/recruitment to the cadre of Postman from Gr'D' officials and CDAs to be held on 17.01.1999. (Sunday).

The above examination will be held on 17.01.99 to filled up vacant posts and for that last date of submission of application has been fixed on 18.12.98. The Gr'D' staff, departmental runners having 3 years of service can submit their ~~xxxxx~~ application through their respective Sub-Divn heads. For this last date of receipt of application by this office is on 18.12.98 and application received after due date will not be entertained in any case, the X ASPOs, Sub-Divisional inspectors are hereby caution to verify details of the candidates minutely and verify correctly before submitting to this office. In case of any incorrect information found in the application will directly be reported to the C.O. for initiating against them.

The application should forwarded with 2(two) recent passport size photograph duly attested by Sub-Divisional head, relevant certificates of educational, age caste in photocopies duly verified by you and recommendation to reach this office on or before the stipulated date.

Encl:- Format for application.

(LALILURIA)

Director Postal Services
Manipur Divn, Imphal-795001.

Attested
by
Advocate.

4

APPLICATION FOR RECRUITMENT TO THE CADRE OF
POSTAL/VILLAGE POSTMAN FROM EDA/GROUP 'D'.

OFFICIALS

01. Name (in Bloc. letters) :-
02. Designation :-
03. Office to which attached :-
04. Date of continuous appointment;
as EDA/Group-'D'.
05. Date of birth :-
06. Whether SC/ST/OBC :-
07. Date of completion of three years
continuous service in Gr'D'cadre/
5 yrs service in EDAs.
08. Educational qualification (attested
copies of certificates should be
enclosed).
09. Sports qualification, if any :-
10. Permanent home address with :-
Police station and District
11. Whether able to ride bi-cycle :-
12. State the language by which you
like to appear in the Exam in
r/o following papers: (i) Paper-A:
Entries in Postman book/village
postman book/preparation of Mail
Dist.
Paper-B: Arithmetic of 10th standard.
Paper-C: Writing Dictation in Regional
language.
- ✓ 13. Whether the EDA is willing to
work any where in the Region if he
qualifies in the Examination.
If so, he/she should mention three
places (division) of his choice.

I, do hereby
declare that the above particulars furnished by me are true.

Date:

Signature of applicant.

FOR USE BY APPOINTING AUTHORITY

1. Whether particulars furnished above are
2. Recommended/not recommended.

Signature of the appointing
Authority.

ORDER OF THE DIVISIONAL AUTHORITY.

Annexure B4²³

ANNEXURE- 4

PROMOTION PROSPECTS

131

EXTRACT

From among the 50% of the vacancies reserved for outsiders, one half will be filled in from amongst EDAs on merit and another half will be filled in from amongst ED Agents on the basis of length of service. Therefore, one roster of 100-points will be maintained. The reserved points should also be divided equally between the quota of length of service and that on merit. The add figure should be added to the quota for those based on length of service. If that vacancy is not filled in on the basis of length of service, the vacancy will go to the quota meant for those selected on merit.

The candidates who will be selected on the basis of length of service will be *en bloc* senior to the candidates who are selected on merit.

If in a Circle there is no separate Region, the Circle should be treated as a Region for the purpose of above instructions.

The above instructions and the revised procedure will not be applicable in the case of recruitment to the cadre of Group 'D' but only for recruitment to Postmen/Village Postmen/Mail Guards. The other conditions prescribed for filling up vacancies and conducting of examination not mentioned in the amendments as above will remain unaffected.

These instructions will be applicable to all the examinations for filling up vacancies in the cadre of Postmen/Village Postmen/Mail Guards to be announced after the date of issue of this letter.

[D.G., Posts, Letter No. 44-44/82-SPB-I, dated the 7th April, 1989.]

✓ ANNEXURE

It has now been decided that the existing syllabus for the Departmental candidates/EDAs for induction to the cadre of Postmen/Mail Guards/Village Postmen shall be substituted by the following:—

	Paper	Total Marks	Qualifying Marks	Duration
✓ A (i)	Making entries either in Postmen's Book (MS 27) or Village Postmen's Register (MS 58) according to the choice of a candidate (for Postmen).	50	45%	45 minutes
(ii)	Preparation of mail lists, filling up of mail abstracts and writing up daily reports (for Mail Guard). The entries should be made either in English or in the recognized language of the State.			
✓ B.	Arithmetic of 10th Standard of Board of Schools Education.	50	45%	90 minutes
✓ C.	Writing from dictation in English language of Matriculation Standard and also in the regional language.	50	45%	30 minutes

(2) Removal of test for absorption of EDAs in Group 'D' cadre and raising of upper age-limit to appear in the Postmen examination.—A proposal on the above subject has been under consideration for quite some time

W.D.A.S.

(2) Rules for recruitment to Postmen and Mail Guards.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution and in supersession of the Indian Posts and Telegraphs (Postmen/Mail Guards/Head Mail Guards) Recruitment Rules, 1969, except in respect of things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the posts of Postman/Village Postman and Mail Guards in the Department of Posts, namely:—

1. *Short title and commencement*

- (1) These rules may be called the Department of Posts (Postman/Village Postman and Mail Guards) Recruitment Rules, 1989.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. *Number, classification, and scales of pay*

The number of the said posts, their classification and scale of pay attached thereto, shall be as specified in columns 2 to 4 of the schedule annexed to these Rules.

3. *Method of recruitment, age-limit, qualifications, etc.*

The method of recruitment, age-limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 14 of the said schedule.

Attested
W. S. S.
Secretary.

4. *Disqualifications — No person*

- (a) Who has entered into or contracted a marriage with a person having a spouse living, or
- (b) Who, having a spouse living, has entered into or contracted a marriage with any person,

shall be eligible for appointment to the said post:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax*

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

6. *Saving*

Nothing in these rules shall affect reservations, relaxation of age-limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE ANNEXED TO THE RULES

Postmen

- Col. 1 — Name of Posts — Postman/Village Postman.
- Col. 2 — No. of Posts — 56006 (1987).
- Col. 3 — Classification — General Central Services Group 'C' Non-Gazetted Ministerial.
- Col. 4 — Scale of Pay — Rs. 825-15-900-EB-20-1,200.
- Col. 5 — Whether Selection or non-selection post — Selection.
- Col. 6 — Whether benefit of added years of service admissible under CCS (Pension) Rules, 1972 — Not applicable.
- Col. 7 — Age-limit for direct recruits—
- (i) Between 18 and 25 Years (Relaxable up to 35 years).
- ✓*(ii) Extra-Departmental Agents who have been recruited on or before 16-11-1982, shall be eligible if they are within 42 years (47 years for SC/ST) of age and those appointed

*Now 55 years for SC/ST and 50 years for others— See Instruction (10) in this section.

Attested
Advocate.

Attested
Advocate.

after 16-11-1982, shall be eligible if they are within 35 years (40 years for SC/ST) of age and have put in three years of satisfactory service.

Col. 8 — Educational and other qualifications required for direct recruits — Matriculation or equivalent.

Col. 9 — Whether age and educational qualifications prescribed for direct recruitment will apply in the case of promotions — No.

Col. 10 — Period of probation if any — 2 years.

Col. 11 — Method of recruitment—

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

(2) 50% by Extra-Departmental 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.

(3) If the vacancies remained unfilled by EDAs of the recruiting Division, such vacancies may be filled by the EDAs of the Postal Division falling in the zone of Regional Directors.

(4) If the vacancies unfilled by EDAs remain unfilled by the EDAs of the recruiting units, such vacancies may be filled by EDAs of the Postal Divisions located at the same station. Vacancies remaining unfilled will be thrown open to EDAs in the Region.

(5) Any vacancy remaining unfilled may be filled up by direct recruitment through the nominees of the Employment Exchange.

Col. 12 — In cases of promotion—

(1) Promotion from Group 'D' officials who have put in 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.

Attested
WDS
2/10/2012

3. If the vacancies remained unfilled by ED Agents of the recruiting division, such vacancies may be filled by ED Agents of the Postal division falling in the zone of Regional Directors.

Col. 12 — In case of recruitment by promotion/deputation/transfer/grade from which promotion/deputation/transfer to be made—

1. Promotion from Group 'D' officials who have put in three years of regular and satisfactory service as on the closing date for receipt of applications through a Departmental examination.
2. ED Agents through a Departmental examination.
3. Direct recruitment through a Departmental examination.

Col. 13 — If a DPC exists what is its composition: Not applicable.

Col. 14 — Circumstances in which UPSC is to be consulted in making recruitment: Not applicable.

[D.G., Posts, Notification No. 44-31/87-SPB-I, dated the 6th July, 1989.]

UPSC
1/11/89

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E CIRCLE, SHILLONG

Memo. No. Staff/18 M/76/Rlg/Corr.

Dated at Shillong the 28th May'1999

Sub:- Result of the Examination for Promotion/recruitment to the Cadre of Postman held On 17th Jan'1999.

The following candidates have qualified in the above examination. Their names are shown in orders of seniority in case of Departmental/Seniority quota and in order of Merit for the other E.Ds

MEGHALAYA DIVISION

Group "D" - None qualified.

E.D. (On Merit)

1. Smt. Monlai Khushyandaur (ST) Roll No. SH-45.

AGARTALA DIVISION

Group "D" - None qualified.

E.D. (On Merit)

1. Sri Kamal Rn. Chakrabarty (OC) Roll No. AGT-37/98.
1. Sri Mihir Chowdhuri (OBC) Roll No. AGT-38/98

DIARMANAGAR DIVISION

Group "D" - None qualified.

E.D.(On Merit)

1. Smt. Namita Rani Dutta (OC) Roll No. DNR/EDM-6/98
2. Sri Bijit Mitra (OC) Roll No. DNR/EDM-10/98.
3. Sri Dilip Kr. Deb Nath (OC) Roll No. DNR/EDM-38/98

Attested
[Signature]
Advocate

Page -- 2.

MIZORAM DIVISION

Group "D" Non qualified.

E.D. (On Merit)

- | | | | |
|----|------------------------|----|-----------------|
| 1. | Smt. M.S. Dawngkimi | ST | Roll No. MR-07 |
| 2. | Sri K. Lalthingliama | ST | Roll No. MR-23. |
| 3. | Smt. K.L. Biakthanpuui | ST | Roll No. MR-25. |

ARUNACHAL PRADESH DIVISION

Group "D" Nil.

E.D. Seniority -- Nil

E.D. (On Merit)

- | | | | |
|----|---------------------------------|-----|-----------------------------------|
| 1. | Sri Sanjay Pandit | OBC | Roll No. ARED-39/98. |
| 2. | Sri Atmanand Ram | SC | Roll No. ARED-38/98 |
| 3. | Sri Padam Pd. Sharma | OC | Roll No. ARED-17/98 |
| 4. | Sri Naresh Kr. Sharma | OC | Roll No. ARED-25/98 |
| 5. | Sri K.B. Chetri (8372255-M.Sep) | OBC | Roll No. ARED-67
A-01/APS/Pro. |

MANIPUR DIVISION

Deptl. :- Non qualified.

E.D. (On Merit)

- | | | | |
|----|--------------------|-----|----------------------|
| 1. | S. Ibomcha Singh | OBC | Roll No. ED/IP-20(P) |
| 2. | Md. Ajimudin | OC | Roll No. ED/IP-13(P) |
| 3. | Kh. Lungam Anal | ST | Roll No. ED/IP-38(P) |
| 4. | N. Premchand Singh | SC | Roll No. ED/IP-06 |

Handwritten signature and date:
A. Ray
1/10/2006

NAGALAND DIVISION

	Group	"D"	
1.	Smt. Nikunja Bora	OC	Roll No. KHM-06
	E.D. on Seniority	Non qualific.	
	E.D.	(On Merit)	
1.	Sri H.C. Sahani, 8372967-P Sep.	OBC	Roll No. KHM-87
2.	Sri Dilip Kr. Singh	OC	Roll No. KH-37
3.	Sri Akang Tozung	ST	Roll No. KH-08.

If any information regarding date of birth, cast, nationality, educational qualification etc. are subsequently found incorrect due to wrong information furnished by the candidates or other reasons that can effect eligibility, their name will be removed from the select list.

The approved candidates will have to under go a prescribed course of training and other pre-appointment formalities should be duly observed by each appointing authority

(Signature)
(Niranjan Das)
Asstt, Director (Staff)
For Chief Postmaster General
N.E. Circle, Shillong

Shillong. Copy to:-

1. All D.P.S. in N.E. Circle.
2. The Sr. Supdt. of PO's Shillong.
3. The Supdt. Of PO's Dharmanagar.
4. The Supdt. P.S.D. Silchar.
5. The Sr. Postmaster Shillong-GPO
6. All Postmasters in N.E. Circle.

(Signature)
For Chief Postmaster General
N.E. Circle, Shillong

(Handwritten initials)

FORM NO. 4

(See Rule 42)

The Central Administrative Tribunal

GUWAHATI BENCH GUWAHATI

ORDER SHEET

APPLICATION NO.

242/99

OF 199

Applicant(s)

Respondent(s)

Advocate for Applicant(s)

Advocate for Respondent(s)

Sec. T. J. Singh and ors

Union of India and ors

Mr. B. K. Sarma, Mr. B. K. Talukdar,
Mr. S. Sarma

C. S. C.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

17.8.99

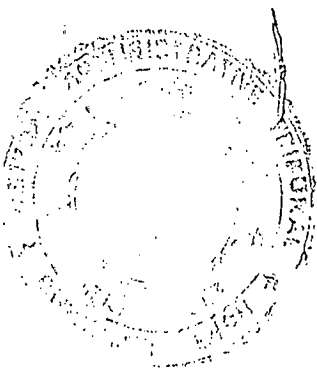
Present : Hon'ble Mr Justice D.N.Baruah,
Vice-Chairman
Hon'ble Mr G.L.Sanglyine,
Administrative Member.

Five applicants have approached this Tribunal seeking certain directions and with a prayer to allow them to join this single application under the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (procedure) Rules 1987. perused the application. Permission is granted to join in this application under the aforesaid Rule.

All the five applicants are now working as Extra Departmental Agents under the postal Department. The grievance of the applicants is that the promotion/recruitment to the cadre of Postman from Group 'D' officials and EDAs have been made in violation of

contd...

Attested
[Signature]
Advocate.



Notes of the Registry	Date	Order of the Tribunal
<p>17.8.99</p> <p>the provisions contained in Annexure-4 and 5 Notifications. Feeling aggrieved the applicants submitted several representations. As the representations have not been disposed of, the applicants approached this Tribunal. We find that six months period is not over from the last representation. Therefore, the present application is premature. We are therefore not inclined to admit the application. However, we direct the respondents to dispose of the representations as early as possible at any rate within a period of 2 months from the date of receipt of this order.</p> <p>Mr B.K.Sharma, learned Sr.counsel for the applicants submits that the respondents are going to hold another selection which is scheduled to be held on 22.8.1999. If such selection is held, there will be numerous complications and the applicants will be prejudiced. Heard Mr.A.Deb Roy, learned Sr.C.G.S.C for the respondents also. On hearing the counsel for the parties we direct the respondents not to hold any selection as per Annexure-18 letter dated 1.6.1999 till the disposal of the representations and consideration of the case of the applicants. If the applicants are still aggrieved by the decision of the respondents they may approach this Tribunal.</p> <p>Application is disposed of. No order as to costs.</p> <p>19/8/99</p> <p>TRUE COPY</p>	<p>17.8.99</p>	<p>the provisions contained in Annexure-4 and 5 Notifications. Feeling aggrieved the applicants submitted several representations. As the representations have not been disposed of, the applicants approached this Tribunal. We find that six months period is not over from the last representation. Therefore, the present application is premature. We are therefore not inclined to admit the application. However, we direct the respondents to dispose of the representations as early as possible at any rate within a period of 2 months from the date of receipt of this order.</p> <p>Mr B.K.Sharma, learned Sr.counsel for the applicants submits that the respondents are going to hold another selection which is scheduled to be held on 22.8.1999. If such selection is held, there will be numerous complications and the applicants will be prejudiced. Heard Mr.A.Deb Roy, learned Sr.C.G.S.C for the respondents also. On hearing the counsel for the parties we direct the respondents not to hold any selection as per Annexure-18 letter dated 1.6.1999 till the disposal of the representations and consideration of the case of the applicants. If the applicants are still aggrieved by the decision of the respondents they may approach this Tribunal.</p> <p>Application is disposed of. No order as to costs.</p>



SD/- VICE-CHAIRMAN
 en/- MEMBER (A)

Handwritten signature/initials

From : Shri B.K. Talukdar, Advocate,
Guwahati High Court,
Guwahati-1.

To
Mr. S. Samant,
Chief Postmaster General,
N.E. Circle, Shillong-793001.

Suj : WA 243/99- Shri T.J. Singh & Ors
-Vs-
Union of India & Ors.

Sir,

As instructed by my clients, I have the honour to send herewith a copy of the order dt. 17-8-99 passed in the above case by Hon'ble Central Administrative Tribunal, Guwahati for favour of your information and necessary action.

Yours faithfully,

B.K. Talukdar

Encls : As stated above.

(B.K. Talukdar) 19/8/99
Advocate

Copy forwarded in for favour of information and necessary action to Shri Lalhluna,
Director of Postal Services,
Manipur, Imphal -795001.

B.K. Talukdar
19/8/99
(B.K. Talukdar)
Advocate.

CDAS
19/8/99

FR-34

ANNEXURE - 9

Department of Post: India.
Office of the Director Postal Services: Manipur: Imphal.
795001.

Colly

No. B-4/Exam/Postman/99

Dated at Imphal the 27.08.99.


To.

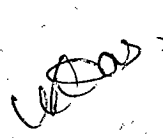
Shri T. Jilangamba Singh
BPM, Sagolband Thingom Leikai
P.O. Imphal.

Sub: - Communication of Marks obtained
in Postman Exam-98.

It has been communicated by FMO, Shillong under
his office memo No. Staff/18-62/98(CON) dtd. 17.08.99 that
the following are the marks obtained by you in the Postman
Examination held on 17.01.99.

Name of official	Roll No.	Marks obtained in			
		Paper-A	Paper-B	Paper-C	
T. Jilangamba Singh BPM, Sagolband Thingom Leikai	ED/IP-01	40	30	38	


For, Director Postal Services
Manipur Divn, Imphal-795001.



Department of Post, India.
Office of the Director Postal Services, Manipur, Imphal.
795001.

No. B-4/Exam/Postman/99

Dated at Imphal the 27.8.99.

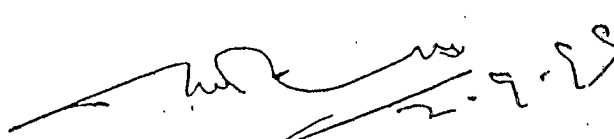
To,

Md. Tahir Ali,
BPM, Kwakta B.O.

Sub: - Communication of marks obtained in
Postman Exam-98.

It has been communicated by PMG, Shillong under his office memo No. Staff/18-62/98(CON) dtd. 17.08.99 that the following are the marks obtained by you in the Postman examination held on 17.1.99.

Name of official	Roll No.	Marks obtained in		
		Paper-A	Paper-B	Paper-C.
Md. Tahir Ali BPM Kwakta B.O.	ED/IP-27	45	40	37


For, Director Postal Services
Manipur Divn, Imphal-795001.

Attested
L. Das.
1/9/99

Department of Post, India.
Office of the Director Postal Services, Manipur, Imphal.
795001.

No. B-4/Exam/Postman/99

Dated at Imphal the 27.8.99.


To,

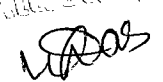
Shri N. Mahesh Singh
ED/EDMC Khordak-Ichin B.O.

Sub: - Communication of marks obtained in
Postman Exam-98.

It has been communicated by PNC, Shillong under
his office memo No. Staff/18-62/98(CON) dtd. 17.08.99 that
the following are the marks obtained by you in the Postman
examination held on 17.1.99.

Name of official	Roll No.	Marks obtained in		
		Paper-A	Paper-B	Paper-C.
Shri N. Mahesh Singh	ED/IP-28	45	38	33


For, Director Postal Services
Manipur Divn, Imphal-795001.

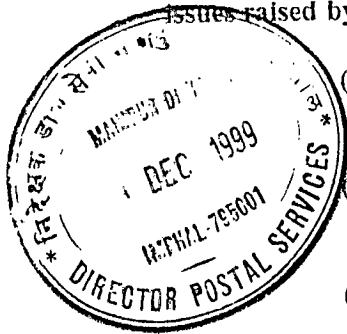

/drcall

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE, SHILLONG.

NO.STAFF/L/18-62/98(CON),

Dtd.at Shillong,the 15.11.99.

In pursuance of the Hon'ble Central Administrative Tribunal, Guwahati Bench Order dated 17.8.99, in O.A.NO.243/99, the representations submitted by Shri T.J. Singh, Smt. Samolini Devi, Md. Tahir Ali, Shri N. Mahesh Singh and Md. Abdul Gaffor, the candidates in the examination for promotion to Postman cadre held on 17.1.99 were examined in reference to the relevant records. After the examination and due deliberation on the issues raised by these representationists, I am directed to state that there three main issues raised by these candidates in their representations as given below :-



- (a) That there was an anomaly in declaring the vacancy position for said Examination by the Manipur Division.
- (b) That the surplus qualified ED candidates of Manipur Division may be asorbed in other Divisions in the Circle.
- (c) That the implementation of the result declared should be withheld till reconciliation of the actual vacancy position in Manipur Division.

2. The observations on the issues raised by the candidates are given below at seriatam :-

- (i) Manipur Division in their letter No.B-10/PA-DR/98 dated 2.9.98 intimated the Circle Office that there were total four vacancies in the cadre of Postman in that division. The break-up of the vacancy was intimated as below :-

Outsider	-	ST = 1
		OBC=1
Departmental-		SC = 1
		UR = 1

The vacancy shown as OBC (outsider quota) was treated as UR so as to adhere to the principle of limiting reservation to the maximum of 50% of total vacancy. Since no candidate qualified for departmental quota against above mentioned two vacancies the vacancies in the said quota were merged with the outsider quota. Accordingly the result was declared by selecting on merit to the vacancies as per the communities given below :-

SC	-	1
ST	-	1
UR	-	2

Conversion of departmental quota into ousider quota due to non-qualifying of departmental candidates is an automatic procedure so as to avoid non filling-up of the vacancy in the same year. Such a step also serves the interest of the EDAs (to which cadre the representationists belong) who need not have to wait till the next year for filling-up of the unfilled departmental vacancies. In view of this, there is no anomaly in declaring the


Handwritten signature and initials

vacancy position for the examination for promotion to Postman cadre and consequent filling-up of the vacancies by merging departmental and outsider quota together and selecting candidates on merit.

- (ii) As per the instructions contained in Department of Posts Notification No.44-31/87-SPB-1 dated 06.07.89, the unfilled vacancies of Postman cadre of a division may be filled up by surplus qualified candidates of other divisions in the Region on the basis of a common regional merit list. In the North-Eastern Postal Circle there are two Regions, i.e. PMG's Region consisting of divisions in the States of Manipur, Mizoram and Nagaland and CPMG's Region consisting of divisions in the States of Arunachal Pradesh, Meghalaya and Tripura. However, the provision of recruiting surplus candidates from other divisions has not been resorted to in this Circle earlier due to the perceived difficulties likely to be faced by the candidates of one State going and working in another State in the cadre of Postman. However, considering the willingness of some candidates, who have represented for their absorption in other divisions, it was decided to offer one unfilled ST vacancy of Mizoram division to the surplus qualified ST candidate of Manipur and Nagaland divisions falling within the Region of PMG on the basis of common regional merit list, subject to willingness of such candidates. Action has already been taken to ascertain the willingness of such candidates and seniormost willing ST candidates will be allotted to Mizoram Division.
- (iii) Director Postal Services, Manipur Division has re-confirmed in is letter No.B4/Exam/Postman/98 dated 1.9.99 that there are only four vacancies in his division for the year 1998 for which the examination for the promotion was held on 17.1.99. In the break-up of vacancies and need of subsequent apportionment of all the four vacancies to outsider quota have already been stated in sub-para (i) above.

3. In addition to the three main issues raised by the representationists as mentioned above some of them have stated about declaration of result by Circle Office, publication of marks etc. in their representations. Declaring result is an administrative and procedural matter, which have been decided in accordance with convenience so as to ensure expeditious declaration of result. These do not have any bearing on declaration of vacancy or process of selection. The marks obtained by different candidates are not published collectively. However, any candidate who wants to know about his own marks can be communicated the marks on application. In fact 7 number of candidates have already applied and supplied with the marks.

4. In view of the above the pleas and request of the representationists have been examined by this office and have been adequately taken care of. As such their representations stand disposed of. This has been approved by the Chief P.M.G.


(NIRANJANA DAS)
Asstt. Director (Staff)
for Chief Postmaster General.

Attested

Advocate.

Copy to :-

1.

Director Postal Services, Manipur Division, Imphal. He is requested to Convey the decision of Circle office to the representationists with reference to his No.B-4/Exam/Postman/98 dated 15.11.99.

The Representationists concerned through DPS, Imphal. *Md. Tahir Ali,*

✓ 2.
Regd A/S

To, *Md. Tahir Ali*
ED. BPM Kwakta Bo
via Moirang S.O.

[Signature]
Asstt. Director (Staff)
for Chief Postmaster General.

[Signature]
/ [unclear]

- 40 -

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 87 of 2000.

Date of Order : This the 23rd day of February, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member (A).

1. Shri T. Jilangamba Singh
S/o (L) T. Kunjabihari Singh,
Resident of Sagolband Thiyam Leikai,
P.O. & P.S. Imphal,
Employed as Extra Departmental Branch
Postmaster, SAgolband EDBO, Manipur State.
2. Md. Tahir Ali
S/o Md. Kasim Ali,
resident of Kwakta village,
P.O. & P.S. Moirang,
Employed as Extra Departmental Branch
Postmaster, Kwakta EDBO, Manipur State.
3. Shri N. Mohesh Singh
S/o N. Achou Singh,
Resident of Khordok Ichin village,
P.O. & P.S. Moirang
Employed as Extra Departmental Mail
Carrier, Khordok Ichin EDBO, Manipur State.

...Applicants

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India,
2. The Chief Postmaster General,
North Eastern Circle,
Shillong-793001.
3. The Director of Postal Sevices,
Manipur,
Imphal-795001

....Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.



O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The only controversy raised in this application
relates to absorption of the surplus Extra Departmental

Contd..

Attested

[Signature]

Advocate.

Agents of Manipur Division. The three applicants who are surplus qualified candidate and by this application ^{have sought} seek for a direction for their absorption on promotion to the post of Postman. These applicants approached earlier before the Tribunal. The Tribunal in its order dated 17.8.99 in O.A. No. 243/99 directed to consider the case of the applicants. The respondents by its order dated 15.11.99 disposed of the representation.

2. Mr. B.K.Sharma, learned Senior Counsel appearing on behalf of the applicants mainly emphasized on the fact that as per the departmental norms the surplus qualified Extra Departmental Agents could be accommodated in any of the neighbouring rooms. ^{divisions etc.} The respondents in its order dated 15.11.99 mentioned about the proposed action for filling up of the post. The relevant portion of paragraph 2 (ii) of the order dated 15.11.99 is reproduced below :

"(ii) As per the instructions contained in Department of Posts Notification No. 44-31/87-SBP-1 dated 06.07.89, the unfilled vacancies of Postman cadre of a division may be filled up by surplus qualified candidates of other divisions in the Region on the basis of a common regional merit list. In the North-Eastern Postal Circle there are two Regions, i.e. PMG's Region consisting of divisions in the States of Manipur, Mizoram and Nagaland and CPMG's Region consisting of divisions in the States of Arunachal Pradesh, Meghalaya and Tripura. However, the provision of recruiting surplus candidates from other divisions has not been resorted to in this Circle earlier due to the perceived difficulties likely to be faced by the candidates of one State going and working in another State in the cadre of Postman. However, considering the willingness of some candidates, who have represented for their absorption in other divisions, it was decided to offer one unfilled ST vacancy of Mizoram Division to the surplus qualified ST candidate of Manipur and Nagaland divisions falling within the Region of PMG on the basis of common regional merit list, subject to willingness of such candidates. Action has already been taken to ascertain the willingness of such candidates and senior most willing ST candidates will be allotted to Mizoram Division."

Contd...

Amended
W.D.S.
20/11/99

From the aforementioned paragraph it appears that the respondents only thought of filling up of the ST vacancy of Mizoram Division by the surplus candidates from Manipur and Nagaland. Mr. B.C. Pathak, learned Addl. C.G.S.C. however, submitted that against the vacancies in the neighbouring states surplus qualified candidates may be accommodated subject to availability of vacancy. Rules and policy are made to fill up the post by manning those posts. The respondents are to take care for appointing persons from the respective area on administrative exigencies. However, Rules also provides for accommodating the qualified candidates from neighbouring states. In these circumstances we are of the view that the case of the applicants are required to be considered in the light of policy decision. The applicants are found qualified. Therefore it is an appropriate case for the respondent authority to consider their appointment on promotion to the post of Postman in any of the Division in the Region keeping in mind the policy, guidelines and norms of the department. Mr. Sharma, learned Sr. Counsel for the applicants has submitted that these applicants have given their choice for appointment either in Arunachal Pradesh or in Meghalaya. The respondents are to consider their cases subject to availability of posts and administrative exigency for posting them in these areas or if not anywhere keeping in mind its policy decision.

3. The application is allowed to the extent indicated above. There shall, however no order as to costs. The respondents are directed to complete the above exercise within a period of three months from the date of receipt of a certified copy of this order.

TRUE COPY

Section Officer
Central
Guwahati
19/3/97

Sd/VICE CHAIRMAN
Sd/MEMBER(A)

Advocat.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.

O.A.NO.246 OF 2001

Smt. S.Somalini Devi

- V s -

Union of India and Others.

IN THE MATTER OF :-

Written statement submitted by the
Respondents.

A brief history of the case is given below
which may be treated as part of the written statement.

This is regarding the CAT case filed by
Smt. S.Somalini Devi vide OA No-246/2001.

Examination for promotion to postman cadre
1998 was held on 17/1/99. Result of examination was declared
on 28/5/99. The vacancies for merit quota from ED-As in-
cluding those unfilled Departmental quota and seniority quota
were filled up by the ED-As on Division-wise merit of
qualified EDAs category-wise as if was done every year in
the past.

After declaration of ~~merit~~ result of above
examinations, representations have been received from
candidates expressing willingness for their absorption in
other Divisions where vacancies might not have been filled
up, as provided in postman recruitment rules. As per notific-
ation No-44-31/37-SPB-I dtd 6-7-89, if the vacancies remain
unfilled by EDAs of the recruiting Division. Such vacancies
may be filled up by EDAs of the postal Divisions falling in
the zone of regional Director.

Contd...P/2

13/2/02
49
C.A. No. 246 of 2001

In view of the above, one unfilled vacancy of ST of Mizoram Division was filled up by surplus & qualified ST candidate of Kohima Division.

Being aggrieved some qualified candidates viz Sri T.J. Singh & Others of Manipur Division filed a case in the Hon'ble CAT, Guwahati which was registered under OA No-243/99.

In pursuance of Hon'ble CAT Guwahati Bench order ~~at~~ dtd 17/8/99 in OA No 243/99, the case was examined in reference to relevant records and was turned down under this office order No-Staff/1/18-62/98(CON) dtd.15.11.99.

Being aggrieved, the officials of Manipur Division Viz T.J. Singh & Others again has approached in the Hon'ble CAT, Guwahati which was registered under OA No-87/2000, decided on 23/2/2001 by the Hon'ble CAT against which a writ petition was filed in the Hon'ble High Court registered under W.P.(C) No-4091/2001.

The respondents be to submit the written statement as follows:-

1. That with regard to para 1 to 4.4 in O.A. the respondent(s) beg to offer no comments.
2. That with regards to para 4.5. in the O.A. the Respondent(s) beg to state that Furnishing the Division of choice in the application form does not confer any right to the applicant for absorbtion. The preference is considered only if it is decided to absorb any surplus EDAs of one Division in the region.
3. That with regards to para- 4.6 & 4.7 in O.A. The respondent(s) beg to offer no comments.

Contd...P/3

5

4. That with regards to para - 4.9. in O.A. the Respondent(s) beg to state that vacancies were filled up in accordance with the provision of Rules laid down in notification No-44.31-87.SPB.I dtd 6-7-87 (Annexure 1 above)
5. That with regards to para - 4.10 in O.A. the Respondent(s) beg to state that the respondent did not violate any Rule by declaring the result of the Exam.vide memo No-Staff/18-3/76/RLG/Corr dtd 28.5.99(Annexure - 2).According to Postal Directorate letter No-25-9/78-DE dtd.28/4/89 circle office is empowered to declare ~~xxxxxx~~ result of exam x held at circle level. Postman Exam is also a circle level Examination(Annexure - 2 A).As per records results of postman exams have been declared in similar manner in the past also.
6. That with regards to para - 4.11 in O.A. the Respondent(s) beg to state that marks of the postman exam held on 17-1-99 were communicated to those who applied for the same after paying requisite fees as per deptt.Rules
7. That with regards to para - 4.12. in O.A. the Respondent(s) beg to offer no comments.
8. That with regard to para-4.13 in O.A. the Respondent(s) beg to stat that complied with disposing of the representation of the applicant.Regarding stopping of the Examination scheduled on 22.8.99,the respondent had no scope to take action to stop the same because a copy of the order of Hon'ble CAT dtd 17.8.99 in OA No-243/99, received from the advocate of the applicants in this office on 23.8.99 i.e. after Examination was already held on 22.8.99 at different state of N.E. circle(Copy of the letter indicating the actual date of receipt is at annexure -3)

Contd....P/4.

9. That with regards to para-4.14 in O.A. the Respondent(s) beg to state that since selection is to be made on merit to the extent of vacancy available community wise, securing high marks does not ensure one's selection unless he comes within the required position in the merit list. Comment in para-8 may also be referred to in this regard.

10. That with regards to para- 4.15 in OA the Respondent(s) beg to state that representation of the applicant was disposed of on merit in accordance with Rules (Copy is at Annexure - 4)

11. That with regards to para-4.16 in OA the Respondent(s) beg to state that the order No-Staff/1/18-62/98 (Con) dtd Shillong the 15.11.99 is self explanatory (Annexure - 4).

12. That with regards to para-4.17 in OA the Respondent(s) beg to state that the vacancies were filled up as per provision of Rules.

13. That with regards to para-4.18 in OA the Respondent(s) beg to state that It has already been explained in para- 4.10 above. No provision of Rules have been violated in declaring the result by circle office.

14. That with regards to para-4.19 in OA the Respondent(s) beg to state that this aspect was taken into consideration while result was declared. No candidate from Deptt quota or from EDAs coming in the zone in the seniority quota qualified in the exam. The petitioner not belonged to either of these two categories. As such the result declared did not deprive the petitioner in any way. Rather it went to the advantage of the petitioner who does not come under these two categories as the entire vacancies went to the candidates according to merit.

15. That with regards to para - 4.20 in OA the Respondent(s) beg to state that there was no undue delay in communicating the result. Apprehension of the applicants is totally uncalled for.

16. That with regards to para - 4.21 in OA the Respondent(s) beg to state that this has already been explained in Para - 8 above.

17. That with regards to para-4.22 in OA the Respondent(s) beg to state that N.E. Circle has been divided into two region wide postal Directorate letter No.33-1/88-PE-II dtd 5-12-89 as (1) Chief Postmaster General region consisting states of (a) Meghalaya State/ Division (b) Arunachal Pradesh Division (c) State of Tripura consisting Dharmanagar Division & Agartala Division (d) Postal stores depot Silchar (2) PMG Region comprises of (a) Nagaland Dvn/state (b) Manipur Dvn/state (c) PSD Guwahati (d) Mizoram Dvn/state (Annexure - 5). Both the regions functions in one office due to some administrative difficulties. All the recruitment process therefore is done centrally by the circle office. Transfer of officials of circle cadre like IPoS/ASPOS, SBCO Paetc are done by circle office with concurrence of both the CPMG & PMG when inter regional transfer is involved. As regards to other officials like PA cadre, the transfer is done by the Divisional Heads within the Division. In case of inter Divisional transfer it is done under Rule-38 only by the circle Heads. It may be mentioned here that not to say of postman ~~within the Division~~ cadre, the BCR ~~Cadre~~ PAS who belong to circle cadre in general has been restricted within the Division as a special measure considering the composition of NE circle, consists of 6 ~~at~~ different states instead of one state. Hence the postal

Directorates has made special provision for N.E. to restrict the transfer of BCR officials within the state although they are in circle cadre. (DTE's DO order No-4/4/93-SPB-11 dtd. 6.01.95 is at(annexure-6)

18. That with regards to para - 4.23 in OA the Respondent(s) beg to state that The respondent(s) has already explained in para - 4.10. & 4.13. It is further stated that operation of the judgment order of OA No-87/2000 ~~was~~ decided on 23/2/2001 was stayed by the Hon'ble High Court on 30/6/2001 (copy of order of High Court is at Annexure -6A)

19. +That with regards to para-5.1 in OA the Respondent(s) beg to state that DPS Manipur vide letter No-B-10/PA-Dr/98 dtd 2-9-98 intimated the following vacancies (Annexure - 7)

Out sider - St-a & OBC-1

Deptt-SC-1 & UR-1

Thus there were four vacancies in all in the Division. As the reservation cannot be more than 50% the break up was treated as UR-2, SC-1 & ST-1. There was no change in the total vacancy position showing all the vacancies against the Departmental Quota and in advertent miss-collating and this was taken care of while result was processed

20. That with regards to para- 5.2 in OA the Respondent(s) beg to state that respondent(s) has already been stated in para - 4.19.

21. That with regards to para-5.3 in OA the Respondent(s) beg to state that it has already been stated in para - 4.10.

22. That with regards to para-5.4 In OA the Respondent(s) beg to state that it has already been stated in Para-4.19.

Contd...P/7

23. That with regards to para-5.5 in OA the Respondent(s) beg to state that No undue delay except the time taken in following the procedure, was there. The marks were communicated through the Divisional Heads.

24. That with regards to para-5.6 in O.A. the Respondent(s) beg to state that it has already been explained in para-4.22.

25. That with regards to para-5.7 In O.A. the Respondent(s) beg to state that it has already been explained in para-4.10 & 4.22.

26. That with regards to para-5.7 in O.A. the Respondent(s) beg to state that this was a different case of recruitment of postman in Nagaland Division from open market during the year of 1991. Nagaland Division inadvertently declared total vacancy as 15 & the recruitment was processed accordingly, but at the final stage Nagaland division intimated that actual vacancy was only 4 (Annexure - 8 & 9). In this situation perhaps circle authority did not have any alternative but to absorb them in some other Division so as to avoid legal bindings. It may be admitted here that there is no Rule to absorb the direct recruit of one Division (state) to another Division (state) But it had to be done for legal obligation. But it is not the case with the applicant. She is already in the Department and there is a set of rules for her absorption in higher cadre. This aspect has been discussed in para-4.8 also. More over, an example of past irregular action perhaps cannot be the ground for another irregular for which the applicant is claiming.

27. That with regards to para-5.8 in O.A. the Respondent(s) beg to state that Existence of two region in the circle is an established fact as explained in para 4.22 (Copy of the order is at Annexure-5)

28. That with regards to para-5.9 in OA the Respondent(s) beg to state that at the time of declaration of the result in question, the PMG was looking after the works of CPMG also. However, the concurrence is to be taken in file only and not required to be mention in the result sheet even if both of them are available and the status of the region have been indicated in para- 5.8 above.

29. That with regards to para- 5.10 in OA the Respondent(s) beg to state that status of the region have been explained in para - 5.8 above.

30. That with regards to para - 5.11 in OA the Respondent(s) beg to state that there was no malafied intention on the part of the respondent and no injustice was meted out to any one knowingly or unknowingly. The request for absorption of surplus qualified EDA of Manipur Division to other Divisions do not fall withi the same region is not covered by any provision of rules and therefore it can not be conceded. Rule position is already explained in para-4.8. It may be further mentioned here that intention of the department providing scope for absorption of surplus candidate of one Dvn to other is not to throw this open for entire circle (Copy of DTE letter No-47-5/80-SPB 1 dtd 28-1-81 is at Annexure-10)

31. That with regards to para - 5.12 in OA the Respondent(s) beg to state that disposal of representation was based on Rules and facts.

32. That with regards to para - 5.13 in OA the Respondent(s) beg to state that the action of the respondent was just and according to Rules.

33. That with regards to para-6 & 7 in OA the Respondent(s) beg to ~~xxxx~~ offer no comments.

34. That with regards to para - 8 in OA the Respondent(s) beg to state that for the reasons explained in above mentioned paras, the applicant is not entitled to any relief. The respondent therefore, prays that the petition ~~the~~ may kindly be dismissed.

35. That with regards to para - 9 in OA the Respondent(s) beg to state that it has already explained in para - 8.

V E R I F I C A T I O N

V E R I F I C A T I O N

I Shri { Jyoti moy Datta

being authorised do hereby verify and
declare that the statements made in this written
statement are true to my knowledge, information and
believe and I have not suppressed any material fact.

And I sign this verification on this th
day of December: 2001 at Guwahati.

Jyoti moy Datta
Declarant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

1 APR 2002

GUWAHATI BENCH : GUWAHATI
O.A. NO. 246 OF 2001

O.A. NO. 246 OF 2001

Smti S. Somalini Devi

- Vrs -

Union of India and Others.

IN THE MATTER OF :-

Addl. Written statement submitted by the
Respondents.

A brief history of the case is given below which may be treated as part of the written statement.

This is regarding the CAT case filed by Smti S. Somalini Devi vide OA No. 246/2001.

Examination for promotion to postman cadre 1998 was held on 17-1-99. Result of examination was declared on 28-5-99. The vacancies for merit quota and seniority quota were filled up by the EDAs on Division-wise merit of qualified EDAs category-wise as it was done every year in the past.

After declaration of result of above examination, representations have been received from candidates expressing willingness for their absorption in other Divisions where vacancies might not have been filled up, as provided in postman recruitment rules. As per notification No. 44-31/37-SPB-I dated 6-7-89, if the vacancies remain unfilled by EDAs of the recruiting Division. Such vacancies may be filled up by EDAs of the Postal Divisions falling in the zone of regional Director.

Filed by

1/4/02

(S. P. B. R. D. Y.)

S. C. G. S. C.

G. A. T. G. S. C. Bench

60

In view of the above, one unfilled vacancy of ST of Mizoram Division was filled up by surplus and qualified ST candidate of Kohima Division.

Being aggrieved some qualified vacancies viz., Shri T.J. Singh and Others of Manipur Division filed a case in the Hon'ble CAT, Guwahati which was registered under OA No. 243/99.

In pursuance of Hon'ble CAT Guwahati Bench order dated 17-8-99 in OA No. 243/99, the case was examined in reference to relevant records and was turned down under this office order No. Staff/1/18-62/98(CON) dated 15-11-99.

Being aggrieved, the officials of Manipur Division viz., T.J. Singh & Others agained has approached in the Hon'ble CAT, Guwahati which was registered under OA No. 87/2000, decided on 23-2-2001 by the Hon'ble CAT against which a writ petition was filed in the Hon'ble High Court registered under W.P. (C) No 4091/2001.

The respondents be to submit the written statement as follows.

1. That with regard to para-1 to 4.4 in OA the respondent(s) beg to offer no comments.

2. That with regards to para-4.5 in the OA the respondent(s) beg to state that furnishing the Division of choice in the application form does not confer any right to the applicant for absorption. The preference is considered only if it is decided to absorb any surplus EDAs of one Division in the region.

3. That with regards to para-4.5 and 4.7 in O.A., the respondent(s) beg to offer no comments.

4. That with regard to para-4.8 of the OA, the respondent(s) beg to state that it is correct that securing 45% marks in each papers is the qualifying marks. But it does not ensure any one to be selected as the selection is done based on merit. As regards absorption of surplus candidate of one Division to another Division falling within the region, it is not a must. The competent authority may resort to this or may not. (Copy of the notification is at Annexure-1). Past instances of non-absorption of surplus candidates are there.

5. That with regard to para-4.9 in O.A., the Respondent(s) beg to state that vacancies were filled up in accordance with the provision of Rules laid down in notification No. 44-31/87-SPB-I dated 6-7-87 (Annexure 1 above).

6. That with regard to para-4.10 in O.A., the Respondent(s) beg to state that the respondent did not violate any Rule by declaring the result of the Exam vide memo No. Staff/18-3/76/Rlg/Corr dated 28-5-99 (Annexure-2). According to Postal Directorate letter No. 25-9/78-DE dated 28-4-89, circle office is empowered to declare result of exam held at circle level. Postman exam is also a circle level Examination (Annexure-2 A). As per records, results of Postman exams have been declared in similar manner in the past also.

7. That with regards to para-4.11 in OA, the Respondent(s) beg to state that marks of the postman exam held on 17-1-99 were communicated to those who applied for the same after paying requisite fees as per departmental rules.

8. That with regards to para-4.12 in OA, the Respondent(s) beg to offer no comments.

✓ 9. That with regard to para-4.13 in OA, the Respondent(s) ¹⁵ beg to state that they complied with the Hon'ble Tribunal's order by disposing of the representation of the applicant. Regarding stopping of the Examination scheduled on 22-8-99, the respondent had no scope to take action to stop the same because a copy of the order of Hon'ble CAT dated 17-8-99 in OA No. 243/99, received from the advocate of the applicants in this office on 23-8-99 i.e., after Examination was already held on 22-8-99 at different state of N.E. Circle (Copy of the letter indicating the actual date of receipt is at Annexure-3).

10. That with regards to para-4.14 in OA, the Respondent(s) beg to state that since selection is to be made on merit to the extent of vacancy available community-wise, securing high marks does not ensure one's selection unless he comes within the required position in the merit list. Comment in para-8 may also be referred to in this regard.

11. That with regards to para-4.15 in OA, the Respondent(s) beg to state that representation of the applicant was disposed of on merit in accordance with Rules (Copy is at Annexure-4).

12. That with regards to para-4.16 in OA, the Respondent(s) beg to state that the order No. Staff/1/18-62/98 (Con) dated Shillong, the 15-11-99 is self explanatory (Annexure-4).

13. That with regards to para-4.17 in OA, the Respondent(s) beg to state that the vacancies were filled up as per provision of Rules.

14. That with regards to para-4.18 in OA, the Respondent(s) beg to state that it has already been explained in para-4.10 above. No provision of Rules have been violated in declaring the result by circle office.

✓ 15. That with regards to para-4.19 in OA, the Respondent(s) beg to state that this aspect was taken into consideration while result was declared. No candidate from Departmental quota or from EDAs coming in the zone in the seniority quota qualified in the exam. The petitioner not belonged to either of these two categories. As such the result declared did not deprive the petitioner in any way. Rather it went to the advantage of the petitioner who does not come under these two categories as the entire vacancies went to the candidates according to merit.

16. That with regards to para-4.20 in OA, the Respondent(s) beg to state that there was no undue delay in communicating the result. Apprehension of the applicants is totally uncalled for.

17. That with regards to para-4.21 in OA, the Respondent(s) beg to state that this has already been explained in para-8 above.

18. That with regards to para-4.22 in OA, the Respondent(s) beg to state that N.E. Circle has been divided into two region vide Postal Directorate letter No. 33-1/86-PF-II dated 5-12-89 as (1) Chief Postmaster General region consisting states of (a) Meghalaya State/ Division (b) Arunachal Pradesh Division (c) State of Tripura consisting Dharmanagar Division and Agartala Division (d) Postal Stores Depot Silchar (2) PMG Region comprises of (a) Nagaland Division/State (b) Manipur Division/State (c) PSD Guwahati (d) Mizoram Division/State (Annexure-5). Both the regions functions in one office due to some administrative difficulties. All the recruitment process therefore is done centrally by the circle office. Transfer of officials of circle cadre like IPOs/ASPOs, SBCO posts are done by circle office with concurrence of both the CPMG and PMG when inter regional transfer is involved. As regards to other officials like PA cadre, the transfer is done by the Divisional Heads within the Division. In case of inter Divisional transfer it is done under Rule-38

only by the Circle Heads. It may be mentioned here that not to say of postman cadre, the BCR cadre PAs who belong to circle cadre in general has been restricted within the Division as a special measure considering the composition of N.E. Circle, consists of 6 different states instead of one state. Hence the Postal Directorate has made special provision for N.E. to restrict the transfer of BCR officials within the state although they are in circle cadre. (Dte's DO order No. 4/4/93-SPB-II dated 6-01-95 is at Annexure-6).

19. That with regards to para-4.23 in OA, the Respondent(s) beg to state that the respondent(s) has already explained in para-4.10 and 4.13. It is further stated that operation of the judgement order of OA No. 87/2000 decided on 23-2-2001 was stayed by the Hon'ble High Court on 30-6-2001 (copy of order of High Court is at Annexure-6).

20. That with regards to para-5.1 in OA, the Respondent(s) beg to state that DPS Manipur vide letter No. B-10/PA-Dt/96 dated 2-9-98 intimated the following vacancies (Annexure-7).

Outsider – ST-1 & OBC-1

Departmental – SC=1 & UR=1.

Thus there were four vacancies in all in the Division. As the reservation cannot be more than 50%, the break-up was treated as UR=2, SC=1 & ST=1. There was no change in the total vacancy position showing all the vacancies against the Departmental Quota as inadvertent miss-columning and this was taken care of while result was processed.

21. That with regards to para-5.2 in OA, the Respondent(s) beg to state that respondent(s) has already been stated in para-4.19.

✓ 22. That with regards to para-5.3 in OA, the Respondent(s) beg to state that it has already been stated in para-4.10.

23. That with regards to para-5.4 in OA, the Respondent(s) beg to state that it has already been stated in para-4.19.

24. That with regards to para-5.5 in OA, the Respondent(s) beg to state that no undue delay except the time taken in following the procedure, was there. The marks were communicated through the Divisional Heads.

25. That with regards to para-5.6 in OA, the Respondent(s) beg to state that it has already been explained in para-4.22,

26. That with regards to para-5.7 in OA, the Respondent(s) beg to state that this was a different case of recruitment of postman in Nagaland Division from open market during the year of 1991. Nagaland Division inadvertently declared total vacancy as 15 and the recruitment was processed accordingly, but at the final stage, Nagaland Division intimated that actual vacancy was only 4 (Annexure-8 & 9). In this situation perhaps circle authority did not have any alternative but to absorb them in some other Division so as to avoid legal bindings. It may be admitted here that there is no rule to absorb the direct recruit of one Division (State) to another Division (State). But it had to be done for legal obligation. But it is not the case with the applicant. She is already in the Department and there is a set of rules for her absorption in higher cadre. This aspect has been discussed in para-4.8 also. Moreover, an example of past irregular action perhaps cannot be the ground for another irregular for which the applicant is claiming.

✓ 27. That with regards to para-5.8 in OA, the Respondent(s)⁶⁴ beg to state that existence of two region in the circle is an established fact as explained in para-4.22 (copy of the order is at Annexure-5).

28. That with regards to para-5.9 in OA, the Respondent(s) beg to state that at the time of declaration of the result in question, the PMG was looking after the works of CPMG also. However, the concurrence is to be taken in file only and not required to be mention in the result sheet even if both of them are available and the status of the region have been indicated in para-5.8 above.

29. That with regards to para-5.10 in OA, the Respondent(s) beg to state that status of the region have been explained in para-5.8 above.

30. That with regards to para-5.11 in OA, the Respondent(s) beg to state that there was no malafied intention on the part of the respondent and no injustice was meted out to any one knowingly or unknowingly. The request for absorption of surplus qualified EDA of Manipur Division to other Division do not fall within the same region is not covered by any provision of rules and therefore it can not be conceded. Rule position is already explained in para-4.8. It may be further mentioned here that intention of the department providing scope for absorption of surplus candidate of one Division to other is not to throw this open for entire circle (copy of DTE letter No. 47-5/80-SPB I dated 28-1-81 is at Annexure-10).

31. That with regards to para-5.12 in OA, the Respondent(s) beg to state that disposal of representation was based on Rules and facts.

32. That with regards to para-5.13 in OA, the Respondent(s) beg to state that the action of respondent was just and according to Rules.

33. That with regards to para-6 & 7 in OA, the Respondent(s) beg to offer no comments.

34. That with regards to para-8 in OA, the Respondent(s) beg to state that for the reasons explained above mentioned paras, the applicant is not entitled to any relief. The respondent therefore, prays that the petition may kindly be dismissed.

35. That with regards to para-9 in OA, the Respondent(s) beg to state that it has already explained in para-8.

VERIFICATION

I, Shri Jyotirmoy Dutta being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I sign this verification on 15 the day 16-11 of _____ 2002.

Jyotirmoy Dutta
Declarant