

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 5 of 2003

Indore, this the 29<sup>th</sup> day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri A.S. Sanghvi, Judicial Member

Smt. Priti Malviya, W/o. Shri Amit  
Malviya, Date of birth 16.3.1976,  
R/o. C-12/21, Mahananda Nagar,  
Ujjain (MP).

... Applicant

(By Advocate - Shri Anand Pathak on behalf of Shri S. Paul)

V e r s u s

1. Union of India, through its  
Secretary, Ministry of Communication,  
Department of Posts, New Delhi.

2. Chief Post Master General,  
M.P. Circle, Hoshangabad Road,  
Bhopal (M.P.).

3. Superintendent of Post Office,  
Mandsaur (MP).

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By A.S. Sanghvi, Judicial Member -

The applicant who had applied pursuant to the advertisement dated 21.8.2000 for selection to the post of Postal Assistant is aggrieved by the respondents not calling her for written examination and interview etc. and has approached this Tribunal with a prayer to direct the respondents to consider her case within the stipulated time as deemed fit by the Tribunal. She had moved a representation on dated 11.11.2002 when she found that she was not permitted to undergo the written examination and interview etc. She had prayed in that representation that she be intimated why she was deprived of consideration for the post in question. The respondents in their reply dated 25.11.2002 have stated that the petitioner had not submitted the certificate of typing of a recognised coaching institute and hence she was not getting sufficient number of marks. The applicant contended

that there was no such provision under the statutory recruitment rules to furnish/possess such a certificate and hence ~~she~~ prayed for quashing and setting aside the reply dated 25.11.2002 and for a direction to consider her case. She has also prayed for a suitable appointment order as Postal Assistant in her favour on her selection to that post.

2. The respondents have <sup>resisted</sup> ~~registered~~ the OA and in their reply contended inter alia that to fill up 3 vacancies in the cadre of Postal Assistant the Chief PostMaster General, M.P. Circle Bhopal had issued an advertisement in the leading newspaper on 21.8.2002 and in response to the said advertisement 522 applications were received. The application of the applicant was also received and was registered at serial No. 53. As per the provisions of the recruitment rules in making three components the applicant was not awarded the 5 marks in respect of typing because no certificate was attached with the application by the applicant, whereas only a remark of 30 w.p.m. in English was mentioned in the application at Col. No. 8. Since bonus marks for the typing were not awarded to the applicant, the applicant did not come in the merit and hence she was not called for the written examination and interview etc. Her representation dated 11.11.2002 was suitably replied. According to them since she was not falling within the merit of 5 times the number of candidates called on the basis of the marks obtained in the three components, she cannot make any grievance about her not being permitted to appear in the written examination and interview etc.

3. Mr. Paul, learned counsel for the applicant has filed the written arguments. We have carefully gone through the same. We have also heard Mr. Dharmadhikari, learned counsel for the respondents.

4. The pleadings of the OA do not make it clear, whether this OA is moved after the selection to the post of Postal Assistant was completed or not. However, Mr. Dharmadhikari learned counsel for the respondents informed us that the selection was over and the appointment to the post of Postal Assistant was also made. The prayer <sup>made</sup> ~~ought~~ in the OA suggests that the appointment to the post of Postal Assistant must have been made prior to the filing of the OA by the applicant. If the selection was over and this OA was filed after the selection, then this OA has clearly become infructuous and is not maintainable. The applicant has not mentioned the date on which the written examination of the said post of Postal Assistant was held and also not stated anything about the appointment on the said post having been made. Under the circumstances when it appears from the OA and reply given by the respondents that the OA has come to be filed only after the appointment to the said post of Postal Assistant having been made, the question of directing the respondents to consider the applicant for the said post does not arise. It is quite obvious that the applicant having not come in time has missed the bus and cannot contend that the selection already made of the other candidates be quashed and set aside and she be considered for selection to that post. In the case of Sushma Suri Vs. Government of ~~Andhra~~<sup>NCT</sup> of Delhi, reported in 1999(3) SLJ 34, the Hon'ble Supreme Court in un-equivocal terms laid down that no relief against the selection can be granted when it is already over. In the instant case, we find that the selection is already over and therefore, the relief prayed for by the applicant in this OA is not capable of being granted.

5. Even on merit, we do not find any case made out for granting any relief to the applicant. The advertisement issued by the respondents clearly mentions that the candidates having knowledge of typing at the minimum speed of 30 w.p.m.

in English and 25 w.p.m. in Hindi will be awarded 5 marks for which they have to produce certificate of a recognised institution. Another 5 marks were also said to be awarded to the candidates for data entry qualification in computer provided he/she provides the certificate of a recognised instant institution. In the/OA the applicant has nowhere stated that she has produced the certificate of typing at a minimum of 30 w.p.m. in English or 25 w.p.m. in Hindi. She has however, contended that the statutory rules for recruitment to the post of Postal Assistant did not provide for such bonus marks and as such the requirement was illegal and arbitrary. We find no substance in this contention. When large number of applications are being received for limited number of vacancies it is always open to the administration to short list the candidates and thereafter hold the selection. This was clearly an attempt on the part of the administration to short list the candidates for written test and the oral interview etc. as the number of vacancies were only three. The applicant having failed to produce the required certificates alongwith her application was clearly deprived of the five bonus marks and therefore obviously must not have found place in the short listed candidates. The respondents have stated in their reply that the zone of consideration for these vacancies was restricted to five times candidates on the basis of the marks obtained in three components and the applicant did not find place in that merit list. There is no reason not to believe the version of the respondents. It appears that though in her application given for the post of Postal Assistant the applicant had mentioned that she possessed speed of 30 w.p.m. and had also endorsed that she was enclosing the certificate, she had failed to enclose that certificate. The applicant has, however, in her rejoinder insisted that she had enclosed the certificate but there is nothing on record to justify her assertion. Even the

(M.P. Singh)  
Vice Chairman

**"SA"**

(1) सचिव, जल संसाधन विभाग, जयपुर, जयपुर

- (1) सचिव, उत्तर प्रदेश सरकार, अजमेर, अजमेरपुर  
(2) आवेदन सं. १०१/१९९९ के काउंसिल  
(3) प्रत्यक्षीय/पुनरीक्षण के काउंसिल

(4) सचना एवं आवश्यकता समीक्षा

उप रजिस्ट्रार

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