

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 761 of 2003
Original Application No. 774 of 2003
Original Application No. 775 of 2003

Jabalpur, this the 19th day of January, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Original Application No. 761 of 2003 -

Anand Agrawal, S/o. Shri J.L. Agrawal,
Date of birth – 20.6.1974, Postal Assistant,
Mahiram Kushwaha Bagicha, Bhopalnaka,
Sehore, Distt. Sehore. **Applicant**

2. Original Application No. 774 of 2003 -

Preeti Agrawal, W/o. Shri Sanjay Agrawal,
Date of birth – 10.6.1976, Postal Assistant,
Hariram Kushwaha Bagicha, Bhopalnaka,
Sehore, Distt. Sehore. **Applicant**

3. Original Application No. 775 of 2003 -

H.V. Keer, S/o. Shri B.P. Keer,
Date of birth – 22.9.1976,
Postal Assistant, Post Office Ichawar,
Distt. Sehore – 466115. **Applicant**

(By Advocate – Shri S. Paul in all the OAs)

V e r s u s

1. Union of India,
through its Secretary,
Ministry of Communication, Deptt.
of Post, New Delhi.
2. The Chief Post Master General, MP
Circle, Bhopal.
3. The Post Master General, Indore
Region, Indore.

4. The Director, Postal Services,
Indore Region, Indore.

5. The Superintendent of Post Offices,
Sehore Division, Distt. Sehore. Respondents in
all the OAs

(By Advocate – Shri O.P. Namdeo in all the OAs)

O R D E R (Oral)

By Madan Mohan, Judicial Member –

As the issue involved in all the aforementioned cases is common and the facts and grounds raised are identical, for the sake of convenience these Original Applications are being disposed of by this Common order.

2. By filing these Original Applications the applicants have claimed the following main reliefs :

“(ii) set aside the impugned notice dated 31.10.2003 Annexure A-1,

(iii) consequently command the respondents to continue the applicant in employment as if the impugned notice dated 21.10.2003 or any consequential action thereupon is bad in law, set aside the same,

(iv) in alternatively, summon notification even No. dated 31.1.1992 whereby amendment in the recruitment rules (Postal Asstt. & Sorting Asstt.) 1990 to the effect depriving the 10+2 candidates under vocational stream is made set aside the same,

(v) consequently command the respondents to provide all consequential benefits to the applicant as if the aforesaid notice and consequential action has never passed,

7(viii) upon holding that the conditions laid down in the amendment/notification dated 9.1.2002 whereby the certificate holder of 10+12 from vocational stream has been declared debar for the post of Sorting Assistant and Postal Assistant is ultra-vires and set aside the said condition of the notification dated 9.1.2002.”



3. The brief facts of the case in OA No. 761 of 2003 are that the applicant completed his 10+2 examination from Board of Secondary Education, Bhopal in the year 1994. Thereafter he completed his B.Com. in the year 1994. Being unemployed youth the name of the applicant was registered in the Employment Exchange, Sehore Distt. Vide letter dated 18.6.1996 the applicant was informed that his name is sent by the employment exchange and accordingly he should submit his candidature along with the document and photograph till 1.7.1996. The applicant fulfilled the formalities according to the letter dated 18.6.1996. Thereafter, the applicant was selected in the written examination and further was selected for the post of Postal Asstt. Vide order dated 15.11.1996 he was sent for an attachment before impartation of institutional training at Vadodara. After training he was posted at Sub Post Office, Khujner, Distt. Sehore. The applicant was further sent for practical training and vide letter dated 7.8.1997 he was appointed in the pay scale of Rs. 975-1660 in the Post Office, Rajgarh. The applicant was declared successful in confirmation examination for the post of Postal Assistant held on 1.11.1998. Vide the impugned order dated 21.10.2003 the applicant was intimated that pursuant to some order passed in OA No. 198/2003 and other connected matter by the Bangalore Bench of the Tribunal, he was not eligible to be considered for the appointment of postal Asstt. on account of the fact that he has done his 10+2 in vocational stream. However, the documents mentioned in the said notice/order have not been supplied to him. The candidature of the applicant was accepted and he was appointed after due selection. The applicant has even passed the confirmation examination and has become a confirmed employee. By this time the applicant has rendered more than 6 years of service. There is no misrepresentation of any fact by the applicant in the matter of his educational qualification. Therefore, the impugned action of the respondents is totally unjustified, unreasonable, arbitrary and unfair in nature. A similar matter bearing OA No. 817/1996 has been decided by the Tribunal vide order dated 12.10.2001, whereby the Tribunal has

dismissed the Original Application. Aggrieved by the order of the Tribunal a Writ Petition No. 5623/2001 has been filed before the Hon'ble High Court of Madhya Pradesh. The matter was finally decided vide order dated 20.8.2002 and the Department was directed to continue the petitioner and give proper relaxation as per rules to continue him in service. The applicant is also similarly placed and he should also be continued in service. Hence, this OA is filed.

4. The brief facts of the case in OA No. 774 of 2003 are that the applicant has completed his 10+2 examination from Board of Secondary Education, Bhopal in the year 1995. This examination was completed by the applicant under the vocational stream in the year 1995. Thereafter she completed her B.A examination in the year 1999. She was also appointed in the pay scale of Rs. 975-1660/- and was declared successful in the confirmation examination held for the post of Postal Assistant on 2.5.1999. Thereafter, vide the impugned order dated 21.10.2003 the applicant was intimated that pursuant to some order passed in OA No. 198/2003 and other connected matter by the Bangalore Bench of the Tribunal, she was not eligible to be considered for the appointment of postal Asstt. on account of the fact that she has done his 10+2 in vocational stream. Hence, this Original Application is filed.

5. The brief facts of the case in OA No. 775 of 2003 are that the applicant has completed his 10+2 examination from Board of Secondary Education, Bhopal in the year 1995. This examination was completed by the applicant under the vocational stream in the year 1995. Thereafter the applicant gave the examination of BA 1st year in which he was declared unsuccessful in the year 1996. He was also appointed in the pay scale of Rs. 975-1660/- and was declared successful in the confirmation examination held for the post of Postal Assistant on 12.5.2002. Thereafter, vide the impugned order dated 21.10.2003 the applicant was intimated that pursuant to some order passed in OA No. 198/2003 and other

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connected matter by the Bangalore Bench of the Tribunal, she was not eligible to be considered for the appointment of postal Asstt. on account of the fact that she has done his 10+2 in vocational stream. Hence, this Original Application is filed.

6. Heard the learned counsel for both the parties and perused the records carefully.

7. It is argued on behalf of the applicants that on the similar facts one Shri Narendra Kumar Awasthi has filed OA No. 817/1996. This OA was dismissed by the Tribunal vide order dated 12.10.2001. Feeling aggrieved by the order of the Tribunal he filed a Writ Petition No. 5623/2001 before the Hon'ble High Court of Madhya Pradesh. This Writ Petition was decided vide order dated 20.8.2002, whereby the Department was directed to continue the petitioner and give proper relaxation as per rules to continue him in service. In that case the petitioner has completed 8 years of service in the Department. Hence, the judgment of the Hon'ble High Court fully applies to the present cases of the applicants.

8. The learned counsel for the respondents argued that the facts of the present Original Applications are not similar to the facts of the case of Shri Narendra Kumar Awasthi. We have perused the judgment of the Hon'ble Supreme Court passed in Writ Petition No. 5623/2001 on 20.8.2002 and find that the Hon'ble High Court in its paragraph 7 has observed as under :

“7. As the petitioner had not suppressed anything and he had no role to play and he had not done any thing out of way or paved the path of impropriety and there is nothing on record to show that he has not been able to perform his duty on the post of TTA for the last 8 years, we are of the considered opinion that it is a fit case where the Union of India which has the power under Clause 9 to relax the provision or rule in question should reconsider the matter in terms of the Clause 9 and accordingly we so command. The said exercise shall be done within a period of six months from the today. As we have issued this direction, we do not think it apposite to set aside the order passed by the Tribunal as the Tribunal has dealt



with the facet of termination. This direction would only tantamount to modification of the order of the Tribunal. We may hasten to add, because we have given this direction to the Central Government, the petitioner would continue in his service till the matter is finalized by the Central Government. This Court hopes and trusts that the Union of India would behave like a model employer and consider that the petitioner who has crossed the age bar and worked for 8 years requires a different kind of treatment."

9. Accordingly, we find that the present cases are fully covered in all fours by the aforesaid quoted judgment of the Hon'ble High Court. Hence, the impugned notice passed by the respondents dated 31.10.2003 (Annexure A-1 in all the OAs) are quashed and set aside. The decision so taken by the Hon'ble High Court quoted above shall mutatis mutandis applicable to the present case.
10. Hence, in view of the aforesaid the Original Applications stands allowed. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

“SA”