IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, the September 22nd, 2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. J.P. SHUKLA, MEMBER(ADMINISTRATIVE)

1. **ORIGINAL APPLICATION NO. 492/2005 with MA 225/2006**

Ram Lal Meghwanshi son of Shri Bheru Lal Meghwanshi aged about 20 years, resident of Village & Post Giridia, The. Shahpura, District Bhilwara. Aspirant for appointment to the post of Postal Assistant, through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.
2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.
3. Post Master General, Rajasthan Southern Region, Ajmer.
4. Sr. Superintendent of Post Offices, Ajmer, Postal Divison, Ajmer.

5. Rakesh Kulhari son of Shri Hari Singh Kulhari, aged about 23 years, resident of Village and Post Ranasar, Via, Dumra, District Jhunjhunu.

By Advocates: Mr. V.S. Gurjar (Respondents Nos. 1 to 4.)

Mr. Pyare Lal (Respondent NO. 5)

.Respondents

2. **ORIGINAL APPLICATION NO. 532-A/2005**

Bal Krishan Sharma son of Shri Bhagwati Prasad Sharma aged about 21 years, resident of Village & Post Khamor Tehsil Shahpura, Distrcit Bhilwara. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

….Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Post Master General, Rajasthan Southern Region, Ajmer.

4. Sr. Superintendent of Post Offices, Ajmer, Postal Divison, Ajmer.

By Advocate: Mr. V.S. Gurjar

...Respondents

3. **ORIGINAL APPLICATION NO. 533/2005**

Suresh Kumar Suwalka sonn of Shri Ladu Lal aged about 21 years, resident of Village & Post Narsinghpura Tehsil Shahpura, Distrcit Bhilwara. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Post Master General, Rajasthan Southern Region, Ajmer.

4. Sr. Superintendent of Post Offices, Ajmer, Postal Divison, Ajmer.

By Advocate: Mr. V.S. Gurjar

.Respondents

4. **ORIGINAL APPLICATION NO. 546/2005**

Gajendra Kumar Sharma son of Shri Hanuman Prasad Sharma aged about 19 years, resident of Village & Post

Girdia Tehsil Shahpura, Distrcit Bhilwara. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Sr. Superintendent of Post Offices, Ajmer, Postal Divison, Ajmer.

By Advocate: Ms. Dilshad Khan, Proxy counsel for Mr. S.S.Hassan,

.Respondents

5. **ORIGINAL APPLICATION NO. 547/2005**

Ladu Lal son of Shri Mool Chand Raigar, aged about 19 years, resident of Village & Post Rased Tehsil Kotri, Distrcit Bhilwara. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Assistant Director (Recruitment) Office of Principal Chief Post Master General, Rajasthan Circle, Jaipur.

By Advocates: Mr. V.S. Gurjar

.Respondents

6. **ORIGINAL APPLICATION NO. 548/2005**

Mohammed Hussain Mansuri son of Shri Sirajuddin Mansuri aged 19 years, resident of Village & Post Nandwai, Tehsil Begu, Distrcit Chittorgarh. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Sr. Superintendent of Post Offices, Kota Divison, Kota.

By Advocate: Mr. Gaurav Jain

.Respondents

7. **ORIGINAL APPLICATION NO. 586/2005**

Sunder Lal Suwalka son of Shri Ram Swaroop Suwalka aged about 23 years, resident of Village & Post Bachkheda Tehsil Shahpura, Distrcit Bhilwara. Aspirant for appointment to the post of Postal Assistant through Departmental Competitive Examinations under Direct Recruitment Quota.

By Advocate : Mr. C.B. Sharma

....Applicant

Versus

1. The Union of India through Secretary, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.

2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

3. Sr. Superintendent of Post Offices, Ajmer, Postal Divison, Ajmer.

By Advocates: Mr. V.S. Gurjar

.Respondents

ORDER

Per Hon'ble Mr. M.L.Chauhan

By this common order, we propose to dispose of the aforesaid OAs as the issue involved in these cases is similar. There may be some minor differences here and there on facts but without effecting the main question involved, we refer to the facts in OA No.492/2005

2. Briefly stated facts of the case are that the respondents initiated recruitment process for filling up various vacancies in the following categories:-

a) Postal Assistants in Post Offices
b) Postal Assistants in CO/RO
c) Postal Assistants in SBCO
d) Sorting Assistants in RMS
e) Postal Assistants in Army Post Offices

The advertisement was issued vide Circle Office letter No. Rectt/1-1/2003/II dated 11.8.2005 for the vacancies of Postal Assistant and Sorting Assistant for publication in the local news paper for the whole circle and the said notification was published in 'Rajasthan Partika' and 'Dainik Bhaskar' on 14.08.2005 and in the 'Times of India' on 24.08.2005. The last dated for receipt of application was fixed as 31.8.2005. The recruitment to these vacancies was to be made in accordance with the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002 as amended from time to time. The educational and other qualifications required for the post was 10+2 standard or 12th Class pass from a recognized university or Board of School Education or Board of Secondary Education with English as compulsory subject. There is a note appended below the rules that procedure for recruitment shall be governed by the instructions issued by the Department from time to time. Consequently, the respondents vide letter dated 10.11.2004 (Ann.A1) circulated the revised recruitment procedure for the post of Postal Assistant/Sorting Assistant. This procedure was made applicable for recruitment of 5 categories mentioned above in addition to Postal Assistant of Returned Letter office. It is stipulated in the revised recruitment procedure that the notification shall be issued centrally by the Circle in local or vernacular news papers as determined by the Head of the Circle. It was further provided that the eligibility has to be seen on the last date fixed in respect of the applications. In order to give wide publicity for vacancies and to inform the candidates to apply for the posts it was also stipulated that Employment Exchange will also be addressed by the respective Divisions/Units. The application has to be submitted in the prescribed format. In the revised procedure prescribed for short listing the candidates it was provided that the candidates will be short listed to the extent of 10 times the number of vacancies. It was also made clear that the process of recruitment will be done on centralized basis. At this stage, it may be stated that though the process of recruitment was to be done on centralized basis, while notifying the vacancies, the vacancies were shown on division basis and it was stated that application should be addressed to the person shown against column No. 10. The last date of submissions of application was 31.8.2005. Pursuant to the aforesaid notification/advertisement issued in the newspaper, the applicants applied for the post of Postal Assistant/Sorting Assistant by submitting their applications in terms of advertisement. Though the main grievance of the applicants in these OAs is that the respondents were not justified in conducting the examination unit-wise for the vacancies notified by respondent No.2 on centralized basis and the paper was also set out on centralized basis, the applicant have also pleaded that the procedure of short-listing prescribed in the recruitment procedure is arbitrary and violating of Articles 14, 16 and 19 of the Constitution of India. According to the applicants, by resorting to the said procedure viz. examination on division/unit basis persons who have obtained lesser marks than the applicants were allowed to appear in the examination whereas the applicants were held ineligible to appear, which has caused prejudice to the applicants. Besides this, the action of the respondents is arbitrary and contrary to the rules/procedure prescribed in that behalf.

3. When the matter was listed for admission, this Tribunal after noticing para 4 of the revised recruitment procedure to the cadre of Postal Assistant/Sorting Assistant as circulated vide letter dated 10.11.2004 (Ann.A1), which deal with short-listing of candidates and also stipulates that process of recruitment will be done on centralized basis, granted ex-parte stay and the respondents were directed not to make appointment pursuant to the examination conducted on 25.9.2005 till the next date. The said stay was continued from time to time and ultimately the same was modified on 8.3.2006 when the application to that extent was moved by the official respondents thereby stating that the category of Postal Assistant CO/RO, Postal Assistants SBCO and Postal Assistants in Army Postal Services in the Chief Post Master General, Jaipur were shortlisted on centralized basis and the applications in respect of categories of Postal Assistant in the Post Office and Sorting Assistants in Railway Mail Service were shortlisted on divisional basis. Thus, the grievance of the applicants cannot be generalized and made

applicable to all the categories of the recruitment process and the stay is required to be vacated/modified. Accordingly, this Tribunal modified the order, relevant portion of which is reproduced below:-

> "I have considered the submissions made by the learned counsel for the respondents. Admittedly, the respondents have not followed short listing of candidates on centralized basis in respect of categories of Postal Assistants in Post Office and Sorting Assistants in Railway Mail Services. Thus, in respect of these two categories, the respondents are restrained to fill up the vacancies. Regarding vacancies in respect of remaining categories of Postal Assistants in CO/RO, Postal Assistants in SBCO and Postal Assistants in Army Mail Service in which the respondents have conducted examination by short listing of candidates on centralized basis, the respondents may declare the result and appointment, if any, of the candidates in respect of the aforesaid categories shall be subject to the decision of this OA. The Interim order dated 26.10.2005 shall stand modified to this extent. MA stands disposed of accordingly."

4. The respondents have filed reply. The facts as stated above have not been disputed. The respondents have justified the procedure for short-listing in terms of para 4 of the revised recruitment procedure (Ann.A1). However, the stand taken by the respondents is that it is for the competent authority to decide how to organize its services in the cadre of Postal Assistant/Sorting Assistant. The competent authority has taken a decision to recruit Postal Assistant/Sorting Assistant at regional basis and/or central basis/circle basis according to the object of achieving efficiency in the service of the Postal Department to the general public. Thus, it was permissible for the competent authority to resort to

such method and the prescribed procedure as stipulated in para 4 of recruitment procedure was followed. It may be stated that one Shri Rakesh Kulhari moved an application No.153/2006 for impleading him as one of the respondents as he will be effected by the decision in this. Accordingly, the said MA was allowed vide order dated 2.2.2006 and he is impleaded as party (respondent No.5) in the OA.

5. We have heard the learned counsel for the parties and gone through the material placed on record.

6. Though the main challenge of the applicants in these OAs is that the respondents have not followed the procedure on centralized basis for short listing the candidates as stipulated in the instructions, however, it is also pleaded that depriving the candidates by way of short listing through recruitment process is also not justified in the eyes of law and is also violative of provisions of Article 14 and 16 of the Constitution of India.

6.1 So far as the challenge made by the applicants that procedure of short listing as prescribed in the revised procedure is violative of Article 14 and 16 of the Constitution is concerned, the same cannot be accepted in view of the law laid down by the Apex Court in the case of Union of India vs.

T.Sundararaman, AIR 1997 SC 2418 whereby in para 4 the Apex Court has made the following observations:-

> "4. The Tribunal has clearly erred in doing so. Note 21 to the advertisement expressly provides that if a large number of applications are received the Commissioner may shortlist candidates for interview on the basis of higher qualification although all applicants may possess the requisite minimum qualifications. In the case of M.P. Public Service Commission v. Navnit Kumar Potdar (1994) 6 JT (SC) 302: (1994 AIR SCW 4088), this Court has upheld shortlisting of candidates on some rational and reasonable basis. In that case, for the purpose of shortlisting, a longer period of experience than the minimum prescribed was used as a criterion by the Public Service Commission for calling candidates for an interview. This was upheld by this Court. In the case of Govt. of A.P. v. P.Dilip Kumar (1993) 2 JT (SC) 138: (1993 AIR SCW 848) also this Court said that it is always open to the recruiting agency to screen candidates due for consideration at the threshold of the process of selection by prescribing higher eligibility qualification so that the field of selection can be narrowed down with the ultimate objective of promoting candidates with higher qualifications to enter the zone of consideration. The procedure, therefore, adopted in the present case by the Commissioner was legitimate. The decision of the Tribunal is, therefore, set aside and the appeal is allowed. There will however be no order as to costs."

The ratio laid down by the Apex Court in the case of Sundararaman (supra) is squarely applicable to the facts and circumstances of this case. In this case also the department has received large number of applications against the advertisement, as such, the procedure prescribed by the respondents vide para 4 of the administrative instructions for short listing the candidates to the extent 10 times the number of vacancies based upon the marks obtained in 10+2 level examination cannot be said to be arbitrary in the light of the ratio laid down by the Apex Court as reproduced above.

7. In order to decide the issue whether it was permissible for the respondents to resort to short listing the posts on centralized basis in respect of 3 categories and divisional basis in respect of two other categories, it will be relevant to quote relevant paragraphs of the revised recruitment procedure for Postal Assistants/Sorting Assistants as circulated vide letter dated 10.11.2004. It may be stated that this recruitment procedure is based on the provisions contained in Department of Posts (Postal Assistants and Sorting Assistant) Recruitment Rules, 2002 as amended from time to time. In the aforesaid rules, there is a note appended below column 11 which is in the following terms:-

> "Note- The procedure for recruitment shall be governed by the administrative instructions issued by the Department from time to time."

Para 2 of the letter dated 10.11.2004 through which the revised recruitment procedure was circulated provides that the said procedure will be applicable for direct recruitment to the following grades:-

a) Postal Assistant in Post Offices

b) Postal Assistants in Circle Offices and Regional Offices.

c) Postal Assistants in Returned Letter Offices

d) Postal Assistants in Savings Bank Control Organization.

e) Sorting Assistants in Railway Mail Service.

f) Postal and Sorting Assistants in Army Postal service.

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Para 4 of the revised procedure which deal with shortlisting of candidates reads as follows:-

"(4) Short listing of candidates:

(a) The process of recruitment will be done on centralized basis.
(b) The candidates will be short listed to the extent of 10 times the number of vacancies.
(c) The marks of 10+2 level will only be taken into account for the purpose of short listing. Weightage to the marks of 10+2 will be 40% and a merit list of all the eligible candidates with 40% weightage will be prepared. No bonus marks will be awarded for higher qualifications.
(d) The vocational courses are not to be considered equivalent to 1-+2. The candidates having qualification in vocational course after matriculation will not be eligible.
(e) The short listed candidates will be issued with the hall permits and addressed to appear for the written test.

The procedure for processing applications and maintaining records is in Annexure-IV."

8. Thus from the extracted portion which relates to the procedure to be followed for recruitment to the posts advertised, it is clear that the procedure in vogue at the relevant time was as circulated through administrative instructions dated 10.11.2004 and said procedure was applicable to the aforesaid six categories of the posts and in terms of para 4(a), the process of recruitment was to be done on centralized basis. It is also not disputed that as against six categories mentioned above, the respondents circulated the vacancies of Postal Assistant/Sorting Assistant against five categories of posts (except Postal Assistant in Returned Letter Office). The respondents have admitted that short listing in respect of the categories of the posts namely (i) Postal Assistant in

Circle Office and Regional Office (ii) Postal Assistant in Savings Bank Control Organisation and (iii) Postal Assistant in Army Post Offices were short listed in the office of Chief Postmaster General, Rajasthan Circle, Jaipur on circle basis being the circle cadre whereas in respect of Postal Assistant in post offices and Sorting Assistant in Railway Mail Service short listing was done in the concerned division being divisional cadre. The question which requires our consideration in this case is whether it was permissible for the respondents to resort to such procedure in the face of recruitment procedure as circulated vide letter dated 10.11.2004 (Ann.A1). According to us, the action of the respondents is contrary to their policy decision and thus not legally sustainable. This stand has been taken by the respondent only to justify their illegal and arbitrary action and cannot be accepted. From the letter dated 10.11.2004 (Ann.A1), it is clear that the revised recruitment procedure for Postal Assistant/Sorting Assistant was made applicable to all the categories of posts which were advertised by the Department. Para 4 (a) of the revised procedure for recruitment of the aforesaid posts in no certain terms stipulate that the process of recruitment will be done on centralized basis. It was not upon for the respondents now to make distinction that the category of Postal Assistant in Post Offices an-l Sorting Assistant in Railway Mail

Service are divisional cadre whereas in respect of other three categories the cadre is circle cadre, as such, short listing was done on circle level. In case there were two types of cadres prevalent in the Postal Department, it was open for them to provide short listing of the candidates on centralized basis and divisional basis and in that eventuality the department could have issued administrative instructions regulating the recruitment procedure at divisional level in respect of Postal Assistant in Post Offices and Sorting assistants in Railway Mail Service and short listing on centralized basis in respect of other cadres. There is no such provision in the revised recruitment procedure for Postal Assistant/Sorting Assistant as circulated vide letter dated 10.11.2004 (Ann.A1). Rather, there is a specific provision that revised recruitment procedure shall be made applicable for direct recruitment to all the categories of posts. Thus, we see no force in the submissions made by the learned counsel for the respondents. Thus, on the basis of revised recruitment procedure prescribed for Postal Assistant/Sorting Assistant as circulated vide letter dated 10.11.2004 (Ann.A1) it was not permissible for the respondents to resort to two different procedures thereby resorting for short listing the candidates on centralized basis in respect of three categories and resorting to short listing of candidates on divisional basis in respect of two other categories which is violative of Article 14 and 16 of the Constitution. It may be stated that after Article 14 spread its wings in the field of administrative law following what was principally held in Maneka Gandhis case (AIR) 1978 SC 591, no stand can be taken by any administrative authority that it can act arbitrarily. Indeed, even before the decision in Maneka Gandhi's case, law was that no administrative authority has absolute discretion to decide a matter within its competence the way it chooses, as was done in the instant case by ignoring the mandate of policy decision which prescribes procedure for recruitment of Postal Assistant/Sorting Assistant and which policy decision was framed pursuance to recruitment and promotion rules for the post of Postal Assistant framed in exercise of powers conferred under proviso to Article 309 of the Constitution.

9. Accordingly, these OAs are partly allowed. The examination conducted by the respondents on 25.9.2005 so far it relates to the category of Postal Assistant in Post Offices and Sorting Assistant in Railway Mail Service where the short-listing was done on divisional basis is hereby quashed. The respondents are directed to conduct the examination in respect of aforesaid categories strictly in accordance with para 4 of the revised recruitment procedure for the post of Postal Assistant/Sorting Assistant as circulated vide letter

dated 10.11.2004 (Ann.A1) on centralized basis by resorting to fresh scrutiny of applications received.

10. The above OAs shall stand disposed of accordingly with no order as to costs.

(J.P.SHUKLA)
Member (ADMV)

(M.L.CHAUHAN)
Member (JUDL)

R/