CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA Nos.259/06, 260/06, 261/06, 290/06, 291/06, 292/06, 293/06, 294/06, 295/06, 337/06, 338/06, 339/06, 340/06, 341/06, 342/06, 369/06, 370/06, 371/06, 372/06, 373/06, 374/06, 375/06, 376/06, 377/06, 378/06, 379/06, 380/06 and 381/2006.

Jaipur, this the 22 day of September, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

1.OA No.259/2006.

Biswajit
S/o Shri Bimal Chand Biswas,
Aged about 20 years,
R/o 25, Sati,
Chittorgarh.

2. OA No.260/2006.

Gopal Patidar
S/o Shri Mithu Lal Patidar,
Aged about 21 years,
R/o Near Shiv Mandir, Chothi Sadari,
District Chittorgarh.

3. OA No.261/2006.

Prabhu Lal Dhaked
s/o Shri Chagan Lal Dhaked,
aged about 26 years,
Ro Village & Post Kanera Tehsil Nimbahera
District Chitorgarh.

4. OA No.290/2006.

Pawan Kumar Patidar
S/o Shri Parmanand Patidar,
Aged about 20 years,
Ro Village & Post Kajri,
Pratapgarh, District Chittorgarh.

5. OA No.291/2006.

Nilesh Kumar Patidar
S/o Shri Onkar Lal Patidar,
Aged about 22 years,
R/o Village and Post Kanera,
District Chittorgarh.

6. OA No.292/2006.

Rakesh Kumar Patidar
S/o Shri Manna Lal Patidar,
Aged about 21 years,
R/o Behind Narsing Mandir,
Chothi Sadari,
District Chittorgarh.

7. OA No.293/2006.

Sanjay Kumar Sharma
S/o Shri Nehru Lal Sharma,
Aged about 22 years,
R/o Village and Post Sendhwa
District Chittorgarh.

8. OA No.294/2006.

Mukesh Kumar Meena
S/o Shri Babu Lal Meena
Aged about 24 years,
R/o village and Post Deoli,
Ward No.09, District Tonk.

9. OA No.295/2006.

Rajendra Kumar Meena
S/o Shri Dhanna Lal Meena,
Aged about 26 years,
Village and Post Deoli,
Ward No. 11, District Tonk.

10. OA No.337/2006.

Ghanshyam Singh Padihar
S/o Shri Dule singh Padihar,
Aged about 23 years,
R/o 4-Gha-25,
Chandra Shekhar Azad Nagar,
Bhilwara.

11. OA No.338/2006.

Chandra Prakash Chouhan
S/o Shri Mohan Lal Chouhan,
Aged about 24 years,
R/o 47/486, Shiv Colony,
Kundan Nagar,
Ajmer.

12. OA No.339/2006.

Rajesh Kumar Meena
S/o Shri Harla Lal Meena,

Aged about 20 years,
R/o Village and Post Gadoli Tehsil
Jahajpur, District Bhilwara.

13. OA No.340/2006.

Raja Ram Patidar
S/o Shri Harish Chandra Patidar,
Aged about 20 years,
R/o Near Police Station, Shiv Mandir,
Chhoti Sadari, District Chittorgarh.

14. OA No.341/2006.

Anand Patidar
s/o Shri Hari Ballabh Patidar,
aged about 20 years,
R/o Balaji Tower, TP. Nagar,
Bhilwara.

15. OA No.342/2006.

Dinesh Das Bairagi
S/o Shri Ramesh Das Bairagi,
Aged about 22 years,
R/o C-318, R. K. Colony,
Bhilwara.

16. OA No.369/2006.

Vishnu Lal
S/o Shri Hardev Ram Patidar,
Aged about 21 years,
R/o village and Post Titri Tehsil Patan
District Jhalawar.

17. OA No.370/2006.

Pappu Lal Patidar
S/o Shri Khyali Lal Patidar,
Aged about 21 years,
R/o village and Post Karunda,
Tehsil Chothi Sadari
District Chittorgarh.

18. OA No.371/2006.

Murlidhar Dhakkad
S/o Shri Chittar Lal Dhakad,
Aged about 24 years,
R/o Village and Post Bochola,
Tehsil Nainwa District Bundi.

19. OA No.372/2006.

Kanhaiya Lal Gaur
S/o Shri Siyaram Gaur,
Aged about 19 years,
R/o village and Post Khillora
Tehsil Baseri, District Dholpur.

20. OA No.373/2006.

Manohar Lal Patidar
S/o Shri Puran Mal Ji Patidar,
Aged about 20 years,
R/o Pratap Nagar,
In front of Balika School,
Chittorgarh.

21. OA No.374/2006.

Manna Lal Nagda
S/o Shri Jagdish Chandra Ji Nagda,
Aged about 22 years,
R/o Bala Ji Tyre, T.P. Nagar,
Bhilwara.

22. OA No.375/2006.

Vinod Kumar Nagar
S/o Shri Babu Lal Nagar,
Aged about 20 years,
R/o Village and Post Chainpuria,
Tehsil Nenwa, District Bundi.

23. OA No.376/2006.

Eshwar lal Patidar
S/o Shri Shyam Lal Patidar,
Aged about 22 years,
R/o Village and Post Arnoda
Tehsil Nimbaheda, District Chittorgarh.

24. OA No.377/2006.

Rajendra Singh Meena
S/o Shri goverdhan Lal Meena,
Aged about 23 years,
R/o village Sawantgarh Tehsil Deoli,
District Tonk.

25. OA No.378/2006.

Rajesh Patidar
S/o Shri Jeevraj Patidar,
Aged about 22 years,
R/o 2-C, 15 Chandrashekhar Azad Nagar,
Bhilwara.

26. OA No.379/2006.

Arvind
S/o Shri Jagdish Chandra
Aged about 20 years,
R/o 2-Kha-16, Chandra Shekhar Azad Nagar,
Bhilwara.

27. OA No.380/2006.

Raj Kumar Chanderiya
S/o Shri Mangi Lal,
Aged about 29 years,
R/o Village and Post Kasia
Tehsil Bejolia
District Bhilwara.

28. OA No.381/2006.

Mukesh Panwar
S/o Shri Madan Lal Panwar,
Aged about 23 years,
R/o Village and Post Gali No.9,
Ram Nagar,
Ajmer.

By Advocate : Shri C. B. Sharma in all the OAs.

V e r s u s

1. Union of India
Through its Secretary,
Department of Posts,
Ministry of Communiation and Information Technology,
Dak Bhawan,
New Delhi 110 001.

2. Principal Chief Post Master General,
Rajasthan Circle,
Jaipur 302 007.

Respondents in all the OAs.

By Advocate : Shri V. S. Gurjar for Respondents in all OAs.

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 whether the procedure adopted by the respondents in the recruitment for the post of Postal Assistant/Sorting Assistant as per the instructions dated 10.11.2004 (Ann.A1) for short-listing the candidates is proper. 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.259/2006.

2. Briefly stated, facts of the case, so far as relevant for deciding the matter in issue, are that the respondents decided to fill the vacancies in the post of Postal Assistant/Sorting Assistant occurring in the year 2003 and 2004 by way of direct recruitment which vacancies were approved by the Postal Department vide Directorate's letter dated 20.1.2005. Accordingly, notification was issued by the Circle Office in the local newspaper thereby indicating the category of posts and details of vacancies to be filled in the circle. The said notification was published in the Rajasthan Patrika and Dainik Bhaskar on 14.8.2005 and in Times of India on 24.8.2005. The last date of receipt of the application was fixed as

31.8.2005. The designation of the authority to which the application was to be sent was mentioned in column 10 of part 'C' containing details of vacancies. The application in respect of the categories of Postal Assistant in CO/RO, Postal Assistant in SBCO and Postal Assistant in Army Postal Services were to be submitted to the Circle Office whereas in respect of other categories namely Postal Assistant in Post Offices and Sorting Assistant in Railway Mail Service, applications were to be submitted in the respective units i.e. Divisional Heads. In response to above said advertisement/notification, the applicants did not submit any application form for consideration of their candidature for any post to be filled up. It is only in July, 2006 and thereafter till September, 2006 that the applicants have filed these OAs thereby praying that the respondents may be directed to conduct fresh selection on the basis of procedure prescribed prior to issuance of instructions dated 10.11.2004 and quashing examination conducted on 25.9.2005. The applicants have also prayed that selection process should be as per recruitment rules and the instructions dated 10.11.2004 (Ann.A1) and 28.2.95 (Ann.A4) be quashed. It is on the basis of these facts that the applicants have filed these OAS.

2.1 The ground taken by the applicants is that as per the recruitment rules educational qualification provided is 10+2 standard or 12th passed and it nowhere

provides short-listing of candidates, as such, it was not permissible for the respondents to conduct examination as per the administrative instructions dated 10.11.2004 which prescribes short-listing of candidates. The applicants have also challenged order dated 28.2.1995 (Ann.A4) which also provides for short-listing of candidates.

3. Notice of these applications were given to the respondents. The facts as stated above are not disputed. The respondents have opposed the aforesaid OAs on the ground that since the applicants have not applied pursuant to the aforesaid advertisement, the question of consideration of their candidature against advertised posts does not arise. Thus, according to the respondents, the present applications are not maintainable. The respondents have further stated that the applicants have not acquired any right by filing present OAs either under old rules or otherwise for the vacancies of 2003 and 2004. According to the respondents, no doubt the vacancies occurred in the year 2003 and 2004 but the said vacancies were advertised in the year 2005, as such, the procedure which was applicable at that time has to be applied.

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

5. According to us, the present OAs are bereft of merit and deserve out right rejection for more than one reason. It is not in dispute that as per the recruitment and promotion rules for the post of Postal Assistant and Sorting Assistant Rules, 2002 and as amended from time to time, the eligibility condition for filling up the post of Postal Assistant/Sorting Assistant is 10+2 standard or 12th class pass from the recognized University or Board of Education. It is also not in dispute that below the rules there is note that the procedure for recruitment shall be governed by the administrative instructions issued by the Department from time to time. Accordingly, the respondents issued instructions dated 10.11.2004 for the aforesaid categories of posts. Para 4 of the said instructions which provide for short-listing the candidates is in the following terms:

> "(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."

6. Though the applicant has made vague allegation that the procedure prescribed for short-listing the candidates in the administrative instructions dated 10.11.2004 (Ann.A1) cannot be made applicable to the vacancies of the year 2003 and 2004 but the learned counsel for the applicants could not substantiate this plea as admittedly, the posts were advertised on 11.08.2005 i.e. much after the date when the revised procedure for recruitment to the aforesaid posts was in vogue. Further, it is settled position that where recruitment has to be made by way of direct recruitment, the eligibility criteria and procedure to be followed should be as prescribed under the rules/instructions in that behalf. As per the prescribed recruitment procedure as circulated vide letter dated 10.11.2004 eligibility has to be seen on the last date fixed in respect of applications which in the instant case was 31.8.2005. Thus, the contention of the applicants that procedure which was in vogue at the time of occurrence of vacancies in the year 2003 and 2004 should have been adopted in this case, is without basis. Further, the applicants have failed to point out that in the year 2003 and 2004 the criteria for short-listing of candidates was not in vogue, rather the applicants themselves have placed on record the instructions dated 28.2.95 (Ann.A4) which prescribes procedure for short-listing of the

candidates. Thus, examining the matter from any angle, it is clear that the procedure for short-listing of candidates was in vogue since 1995 and even if for arguments sake it is to be accepted that the vacancies notified by the respondents pertaining to the year 2003 and 2004 should be filled as per the procedure prescribed prior to issuance of the notification dated 10.11.2004, the applicants have not made out any case for our interference as the applicants have not pleaded in this OAs that in the year 2003-2004 there was no procedure for shortlisting of candidates.

7. Yet for another reason, the applicants are not entitled to any relief. In the instant case, the advertisement was issued on 11.8.2005. The last date for receipt of the application was 31.8.2005 and examination was held on 25.9.2005 and the respondents have also prepared select list of the selected candidates, but the same could not be operated on account of the stay granted by this Tribunal. Subsequently, the said stay was modified by this Tribunal on 8.3.2006 and appointment letter was issued to the selected candidates where recruitment process was conducted on centralized basis. The applicants, as already stated above, have filed these OAs somewhere in July to September, 2006 when the selection was almost complete and some of the persons have already joined. The applicants have not given any reason why

they have not approached this Tribunal earlier in case they were aggrieved by the procedure adopted by the respondents for making recruitment to the aforesaid posts and also to challenge the administrative instructions which were applied for short-listing the candidates. Thus, the relief cannot be given to the applicants on this score also. Further, we are also of the view that the applicants have no right to challenge the selection in which they have not participated that too after the process was complete and some of selected candidates have already joined as stated above.

8. Yet again, no relief can be granted to the applicants on account of non-joinder of selected candidates who were given appointment and will be adversely affected in case relief is to be granted to the applicants. Even on this ground, the aforesaid OAs are liable to be dismissed.

9. Besides above, the applicants are not entitled to any relief for another reason. The Apex Court in the case of Union of India Vs. T.Sundararaman, AIR 1997 SC 2418 had held that where the number of applications received in response to an advertisement is large and it will not be convenient or possible for the recruiting authority to interview all the candidates, the recruiting authority may restrict the number of

candidates to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement or by holding a screening test. At this stage it will be useful to quota para 4 of the judgment which reads as under.

> "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."

10. In the instant case also, the respondents, as a matter of policy have provided recruitment procedure which stipulate that candidates will be shortlisted to the extent of 10 times to the number of vacancies and the marks of 10+2 level will also be taken into consideration for the purpose of shortlisting. Thus, the procedure adopted by the respondents as stipulated in the recruitment procedure to the cadre of Postal Assistat/Sorting Assistant as circulated vide letter

dated 10.11.2004 (Ann.A1) cannot be said to be arbitrary or unreasonable.

11. Viewing the matter from any angle, we are of the view that the OAs are bereft of merit. Accordingly, these are dismissed with no order as to costs.

(J.P.SHUKLA)
Member(ADM)

(M.L.CHAUHAN)
Member (JUDL)

R/