

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 30th day of March, 2011

Original Application No.160/2007

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Suresh Chandra Sharma
s/o Shri Har Sahay Sharma
r/o Village and Post Mahar Sarakhurd
via Dausa, Distt. Dausa and
presently working as
Grami Dak Sevak Branch Post Master,
Baniyana, Branch Post Office via Dausa,
Distt. Dausa.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. The Union of India
through its Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bhawan,
New Delhi.
2. The Chief Post Master General,
Rajasthan Circle,
Jaipur
3. Superintendent of Post Offices,
Jaipur (M) Postal Division,
Jaipur

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

Brief facts of the case are that the applicant was holding the post of Gramin Dak Sevak Branch Post Master (GDSBPM), Baniyana, Branch Post Office, Dausa. The department provides promotional avenues to the Gramin Dak Sevak to the post of Group-D, Postman and Clerk. For Postman, 50% vacancies are to be filled in by promotion of Group-D officials after qualifying the test and remaining 50% are to be filled in from Gramin Dak Sevaks and these 50% are divided into 2 halves. 50% of 50% i.e. 25% of total vacancies are to be filled in as per seniority of Gramin Dak Sevaks and remaining 25% from Gramin Dak Sevaks on merit basis.

2. The respondent department issued a notification for the examination to the post of Postman on 19.1.2007 and further declared 6 vacancies for General Category vide letter dated 23.2.2007 and called for applications from eligible candidates. The applicant also applied for the same in response to the advertisement dated 19.1.2007 and also appeared in the examination held on 11.3.2007. He successfully completed all the papers and secured 125 marks in the examination which are admittedly less than the marks of the candidates who have been selected against 3 posts of OC community. Thus, he could not find his name in the list of selected candidates. However, his name was sent to Circle Office as surplus qualified candidates for considering his name against vacancy, if any, remained unfilled in other divisions but he could not be accommodated in other divisions due



to non-availability of vacancy in other divisions also. All six vacancies were announced for General Category but in the outsider quota, reservation to OBC was also available and SC/ST point was also available as per 40 point roster maintained for direct recruitment in Postman cadre and thus it was necessary to make break up of vacancies as per roster of direct recruitment. Accordingly the break up of six vacancies was made as under:-

General.	SC	OBC	Total
03	01	02	06

As per roster system, the candidates were selected on the basis of merit secured by them in the said examination.

3. It is not the case of the applicant that any of the General Category candidates who have obtained lesser marks in comparison to the applicant has been given appointment. Further, the applicant being a Gramin Dak Sevak is eligible to appear against the vacancy of outsider quota and was permitted to appear in the Postman examination. The six vacancies announced for General Category were for departmental candidates i.e. Group-D and not for outsider i.e. Gramin Dak Sevaks. Due to not appearing any Group-D in the said examination, all six vacancies have been transferred to outsider quota i.e. Gramin Dak Sevaks as per Recruitment Rules of Postman/Village Postman/Mail Guard, 1989. On transfer of vacancies from one quota to another quota, the break up of vacancies was to be made as per 100 points roster maintained for outsider i.e. Gramin Dak Sevaks as per Directorate letter dated 15.12.1992. Accordingly break up of six vacancies so



transferred was made as - OC-3, SC-1 OBC-2 and the same were filled up on the basis of marks obtained by the Gramin Dak Sevaks in the said examination, as stated hereinabove.

4. The learned counsel appearing for the respondents submits that similar controversy has been decided by this Tribunal at Jodhpur Bench in OA No.256/04 vide order dated 25th January, 2007 in which the Tribunal in para 6 and 7 has observed as under:-

"6. We have considered the rival submissions put-forth on behalf of all the contesting parties. As far as the factual aspect of the case is concerned, there is hardly any dispute. The two posts were advertised against departmental quota. One post was unreserved and the other was reserved for ST candidate. Admittedly, no candidate applied against the departmental quota. As per the rules in force, the posts were transferred to outsider quota for filling up the same as per the merit by applying 25% quota. We have also gone through the Circular which has been filed on behalf of the applicant and find that its very subject makes it evident that it is applicable to SC and ST candidates in qualifying/confirmation/departmental promotion examination. It does not provide for any relaxation in case of outsider quota, therefore, we have absolutely no hesitation in rejecting the contention of the applicant. The applicant has therefore, admittedly failed to qualify the test and his name has rightly not been placed on the panel.

7. As regards the contention of the applicant that the post was meant for ST and the same has been filled by OBC is concerned, ..ensibly the plea looked attractive but after an incisive analysis, especially from the detailed defence version of the respondents which remains un-refuted, we find that since the posts were filled up from outsider quota, the roster applicable to the outsider shall have to be applied. It has also been averred that the posts which were meant for departmental quota and have been filled from outsider quota, would be carried forward and filled under departmental quota against future vacancies. We have no reason to disbelieve the version of the respondents. Otherwise also, the official acts are presumed to have been done well in accordance with the procedure established by law and the burden lies on the person who disputes the same and to prove the contrary and the applicant has failed to discharge this obligation. Therefore, the action of the respondents is in

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consonance with the rules and the O.A. cannot be sustained on any of the grounds."

A similar controversy was also decided by this Tribunal in OA No.159/07 vide judgment dated 24th November, 2009.

5. Considering the consistent view taken by this Tribunal and considering the explanation given on behalf of the respondents wherein as per the promotion prospects, it has been stated that as per existing orders, the unfilled vacancies of departmental quota, will be added to the quota for EDAs. In future, the unfilled vacancies of departmental quota will be added to the one half of the quota meant for ED candidates on merit only, we find no illegality in the result dated 9.4.2007 (Ann.A/1) and notification dated 19.1.2007 (Ann.A/2).

6. Accordingly, the OA being bereft of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)

Admv. Member

K. S. Rathore
(JUSTICE K.S.Rathore)
Judi. Member

R/