

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A. No.1341/2011

Tuesday, this the 23<sup>rd</sup> day of February 2016

**Hon'ble Mr. A.K. Bhardwaj, Member (J)**  
**Hon'ble Mr. V.N. Gaur, Member (A)**

Sahab Singh GDS Packer  
Son of Sri Mahavir Prasad  
Aged about 49 years  
Post office of Nagar Mahapalika Agra-2  
R/o 31 M/23 Mitrapuram Colony Kheriamod  
Shamshabad Road, Agra District-Agra

..Applicant

(Mr. U Srivastava, Advocate)

Versus

1. Union of India  
Through Secretary of Ministry of Communication  
Department of Post  
Dak Bhavan, Sansad Marg, New Delhi
2. Director Postal Services  
Agra Region, Agra
3. Senior Superintendent of  
Post Office Agra Division Agra  
(Exam Conduct Authority)

..Respondents

(Mr. R C Gautam, Advocate)

## **O R D E R (ORAL)**

**Mr. A.K. Bhardwaj:**

The prayer made in the instant Original Application filed under  
Section 19 of the Administrative Tribunals Act, 1985 reads thus:-

“It is therefore most respectfully prayed that Your Lordships may graciously be pleased to allow the Original Application and set aside the order dated 06.07.2010 issued by Respondent No.3 and direct the official Respondents to finalize the cadre restructuring process as per rules and law and/or pass any other order or further order as Your Lordships may deem fit in the interest of justice.”

2. It is admitted by the respondents in the impugned order dated 06.07.2010 itself that the applicant was appointed as GDS Packer in OBC quota. Once indubitably the applicant joined the service as OBC category candidate and there was no change in his category, in the Postman Examination, 2009 his candidature should have been assessed in OBC category and not in OC quota. Nevertheless, it would not be gainsaid that unlike SC/ST candidates, the OBC category need to be certified on different yardsticks and can vary from time to time.

3. In **Sh. Beedha Ram & another v. Union of India & others** (O.A. No.494/2012) decided on 12.12.2014, this Tribunal ruled thus:

“4.1 It is not disputed that the private respondents No. 5 & 6 had obtained marks higher than the applicants in the examination in question. It is also not disputed that both these private respondents figured in the seniority list as GDS as OBC employees. We have also perused the departmental records and found that both these private respondents had applied for the aforesaid exam as OBC candidates. However, since their caste certificates did not contain the remark that they were not in the creamy layer, the respondent No. 7 had treated them as OC candidates for the purpose of this examination. The contention of the respondents is that this was an error as a consequence of which the applicants got appointed in place of respondents No. 5 and 6. Thus, they have only corrected this error by reverting the applicants and appointing respondent No. 5 & 6 in their place.

4.2 The only issue, we have to resolve is whether the private respondents No. 5 & 6 should have been treated as OBC candidates or OC candidates. Learned counsel for the applicants argued that since the private respondents had not submitted their caste certificates in the prescribed format, they could not have been treated as OBC candidates. On the other hand, the respondents submitted that in the aforesaid exam, no format was prescribed for submission of caste certificates. In any case, private respondents were serving in the department as OBC employees and further on the basis of wages they were getting in the department, they could not have qualified to be in the creamy layer.

4.3 After hearing the rival contentions, we are convinced that there is no infirmity in the action of the respondents. The private respondents No. 5 & 6 were OBC employees having joined the

department as GDS as OBC candidates. They could not have been put in the list of general candidates simply because they had not produced the caste certificate containing the remarks that they were not in the creamy layer. In fact since the category to which candidates belonged was already known to the department, there need not have been any requirement of producing a fresh caste certificate.

5. We, therefore, find no merit in this O.A. and the same is dismissed. No costs.”

4. In the circumstances, the Original Application is disposed of with direction to the respondents to require the applicant to furnish the fresh OBC certificate as in the year 2009 and if his category is so certified, they should consider his candidature against the vacancy of Postman in the OBC category. Needful may be done within a period of eight weeks from the date of receipt of a copy of this Order. No costs.

**( V.N. Gaur )**  
**Member (A)**

**( A.K. Bhardwaj )**  
**Member (J)**

**February 23, 2016**  
/sunil/