

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**
ORIGINAL APPLICATION NO. 180/00587/2015

Tuesday, this the 13th day of November, 2018

CORAM

**HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER**

M.Chakkappan, S/o.Sri.Mahalingam
Aged 44 years, Postman, Munnar Mughya Dak Ghar
Idukki Division, Central Region
Residing at Quarters No.729/18
Teachers Quarters, Nadayar South Division
Nallathanniy Estate, Munnar P.O, Pin -685 612

[By Advocate Mr.O.V.Radhakrishnan,Sr. with M/s.Radhamani Amma and Mr.Antoni Mukkath]

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1. Superintendent of Post Offices
Idukki Division, Thodupuzha, 685 584
2. Postmaster General
Central Region, Kochi – 682 035
3. Chief Postmaster General
Kerala Circle, Thiruvananthapuram – 695 001
4. Assistant Director General (DE)
Ministry of Communications & Information Technology
Government of India, Department of Posts
Dak Bhavan, Sansad Marg, New Delhi – 110 001
5. Union of India, represented by its Secretary
Ministry of Communications, New Delhi – 110 001
6. Velaiah M
Postman, Kattappana P.O
Idukki District- 685 508

(By Advocate Mr.Anil Ravi,ACGSC)

This application having been finally heard on 2.11.2018, the Tribunal on 13.11.2018 delivered the following in the open court.

ORDER

Per: MR.ASHISH KALIA, JUDICIAL MEMBER

Applicant is presently working as Postman. The 3rd respondent issued Annexure A-1 notification, notifying the Limited Departmental Competitive Examination for promotion of Lower Grade Officials to the cadre of Postal Assistant/Sorting Assistant against the 50% quota vacancies during the period from 1.1.2014 to 31.12.2014. Thereafter, first respondent notified the vacancy position in respect of Idukki Division vide Annexure A-2. Applicant submitted his application and appeared for the examination. The results were declared on 17.6.2015 vide Annexure A-4. In Annexure A-4 it has been declared that M/s.S.Subhulakshmi, M.G.Sreenivasan and Velaiah M, have qualified in the examination. Mr.M.Velaiah, respondent no.6 has secured 106 marks out of 200 marks and he has been selected to the 3rd vacancy under the unreserved quota. His selection to the 3rd vacancy under the unreserved quota has been questioned by the applicant in this O.A.

2. Applicant states that the provisional key in respect of LGO examination 2014 was published as per Memo dated 22.12.2014 (Annexure A-5). In

Annexure A-5, the answer to question no.25 in Paper -I Series A is given as option B. Likewise, the correct answer to question no.21 in Paper-II series A is option (D) and the applicant answered option (D) to the same. Applicant submits that after getting feed back on publication of Annexure A-5 Provisional Answer Key, the Chief Postmaster General, Karnataka Circle issued Annexure A-9 memo dated 24.6.2015 changing the answer to question no.25 in Paper I Series A from option (B) to option (A) and (B) both. Thereafter, the 4th respondent published the final key as per Annexure A-10 Memo dated 29.6.2016. In Annexure A-10, the answer to question no.25 in Paper I series and answer to question no.21 in paper II series A are shown as wrong “X” and marks were ordered to be awarded to all who attempted the question no.21 in Paper-II series. However, the marks were restricted to option (A) and (B) only in respect of question no.25 in paper I series A though the final answer key was given as wrong to question no.25 in Paper I Series. The applicant submits that he scored 38 marks in Paper-I and in the event of granting 2 marks to question no.25 in Paper I, the mark of the applicant in Paper I would have increased to 40. Applicant scored 68 marks in Paper-II and therefore, the aggregate marks of the applicant will be 108. The 6th respondent scored only 108 marks and when the marks of two incumbents are same, the selection has to be made in accordance with the seniority. Applicant was appointed as Postman on 5.11.2009 and the 6th respondent was appointed as

Postman on 14.1.2010. Thus being senior in the seniority list, applicant is entitled to get appointment as Postal Assistant against the 3rd unreserved vacancy of the year 2015. The applicant prays for the following reliefs:

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- i. To call for the records leading to Annexure A-4 and to set aside the same to the extent it included the 6th respondent for selection and appointment to the post of Postal Assistant against the 3rd unreserved vacancy of the year 2014;
- ii. To call for the records leading to the selection and appointment of respondent no.6 to the post of Postal Assistant for the vacancies of the year 2014 and to set aside the same;
- iii. To issue appropriate direction or order directing the respondents 1 to 5 to award proper marks for question no.25 in Paper-I series A of the applicant and to review the selection and appointment of respondent no.6 on the basis of the marks secured by the applicant by awarding proper and correct marks and to select the applicant based on his seniority if the marks secured by the applicant is equal or higher to that of the 6th respondent and to appoint him to the post of Postal Assistant in preference to the 6th respondent;
- iv. To issue appropriate direction or order directing the respondents 1 to 5 to promote the applicant to the cadre of Postal Assistant with effect from the date of his entitlement with all consequential benefits including arrears of pay and allowances;
- v. To grant such other reliefs which this Tribunal may deem fit, proper and just in the circumstances of the case;
- vi. To allow the above Original Application with costs to the applicant.”

3 The respondents have filed reply statement and submitted that as per Annexure A-4 memo issued by the 3rd respondent, first respondent declared the names of 3 qualified candidates of Idukki Division who have qualified in the Departmental examination for promotion of Lower Grade Officials to the cadre

of Postal Assistants/Sorting Assistants.

4 As per the answer key published by Postal Directorate, New Delhi vide Annexure A-10 in supersession of Annexure A5, the answer to question no.25 paper-I is (A) or (B) as there was a variation in Hindi & English version. Hence mark was awarded to the candidates who wrote the answer as option (A) or option (B). The applicant has written the answer to this question as option ©. Therefore, no mark was awarded to the applicant for the said question answered by him. In respect of question no.21 of Paper II (A series), the correct answer is “None of these”, but there is no option as “None of these”. Hence, a decision was taken to award marks to all candidates who attempted the question. The applicant had also been awarded marks to this question. Respondents submitted that the applicant is not eligible for any additional marks as claimed by him and the claim of the applicant that he has scored 68 marks in Paper II is not correct. The marks scored by the applicant in Paper II are 66 and aggregate marks scored by the applicant are only 104 while respondent no.6, Mr.M.Velaiah scored 106 marks. As respondent no.6 has 106 marks, he was included in the select list. The total number of vacancies notified for unreserved candidates were three.

5 The grievance of the applicant is that the action of the respondents in not awarding marks to question no.25 in Paper I as in the case of question no.21 in Paper II in LDCE for filling up 2014 vacancies is not justified and it is against the spirit of competitive examinations. Respondents submit that in respect of question no.25 of Paper I of A series, the correct answer is there in the options provided. But there was a variation in Hindi & English version and hence a decision was taken to award marks to those who have written the answer as option A or option B though the correct answer is option B. As regards question no.21 of Paper II (A series) is none of these. As there is no such option as "None of these", a decision was taken to award marks to all who had attended the said question. It is further submitted that there is no separate provision for physically disabled persons in Post Office Life Insurance Rules 2011 and they are to be treated on par with the non disabled persons. Respondents pray for dismissal of the Original Application.

6 Heard Mr.O.V.Radhakrishnan,Senior Advocate, learned counsel for the applicant and Mr.Anil Ravi,ACGSC, learned counsel for the respondents and perused the records.

7 This Original Application is nothing but a frivolous application filed by

the applicant who has awarded 104 marks. Even if the contention of the applicant is to be taken as correct, even then he could have been awarded one more mark, then aggregate could have been 105 marks only. The last candidate has achieved 106 marks. Even in this count also the applicant is not liable to be selected by this LDCE. Without going into further details, this Tribunal feels that the application in the present form is nothing but an enquiry made by the applicant. The present O.A is liable to be dismissed. Ordered accordingly. No costs.

(ASHISH KALIA) **(E.K.BHARAT BHUSHAN)**
JUDICIAL MEMBER **ADMINISTRATIVE MEMBER**

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List of Annexures

Annexure A1 - Photocopy of the Notification No.Rectt/10-3/2014 dated 10.6.2014 of the 3rd respondent

Annexure A2 - Photocopy of the Memo No.B1/56/2014/Dlg. Dated 16.6.2014 of the 1st respondent

Annexure A3 - Photocopy of the online Admit Card Roll No.2231290053 issued to the applicant

Annexure A4 - Photocopy of the Memo No.Rectt/10-3/2014 dated 17.6.2015 of the 3rd respondent

Annexure A5 - Photocopy of the Memo No.A-34013/08/2014-DE dated 22.12.2014 of the 4th respondent

Annexure A6 - Photocopy of the Question Paper in Paper I Series A – Arithmetical Ability

Annexure A7 - Photocopy of the Question Paper in Paper II Series A

Annexure A8(a) Photocopy of the carbon copy of the answer sheet of the applicant in Paper I

Annexure A8(b) Photocopy of the carbon copy of the answer sheet of the applicant in Paper II

Annexure A9 - Photocopy of the Memo No.R&E/1-12/LGOs/2014/II dated 24.6.2015 of the 3rd respondent

Annexure A10 Photocopy of the Memo No.A-34012/-02/2011-DE dated 29.6.2015 of the 4th respondent

Annexure A11 - Photocopy of the D.G (P) No.5-10/93/DE dated 8.11.1995 of the Director General (Posts)

Annexure A12 Photocopy of the representation dated 4.7.2015 of the applicant to the 3rd respondent

Annexure R1- A true copy of the Circle office letter No.Rectt/10-3/2014/Results dated 28.7.2015

Annexure R2 - A true copy of letter No.B1/56/2014/Dlg dated 30.7.2015 issued by 1st respondent

Annexure R3 - A true copy of notification No.194 published in Gazette of India dated 30.8.2012 on amendment of Post Office Life Insurance Rules 2011

Annexure R4 - A true copy of letter No.25-5/Cif/2012-LI dated 9.10.2012 issued by Directorate of Postal Life Insurance

Annexure R5 - A true copy of letter No.A-34013/8/2014-DE dated 29.5.2015 issued by Directorate

Annexure R6 - Copy of order in O.A 686/2015 dated 8.10.2015

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