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**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00361/2017,
Original Application No.180/00392/2017,
Original Application No.180/00515/2017,
& Original Application No.180/00524/2017

Monday, this the 6th day of August, 2018

C O R A M :

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

Original Application No.180/361/2017

Joseph Varghese,
S/o.Varghese Thomas,
Postman, Thevara Post Office,
Ernakulam Division.
Residing at P&T Quarters,
BJ-7, Thevara P.O., Cochin – 13.

...Applicant

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications & IT,
Department of Posts, New Delhi – 110 001.
2. The Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Assistant Director (Rectt.),
Office of the Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
4. The Superintendent of Post Offices,
Ernakulam Division, Ernakulam – 682 020.

...Respondents

(By Advocate – Mr.Sinu G Nath,ACGSC)

Original Application No.180/392/2017

Subin B,
S/o.Babu.K.,
Postman,
Vanchiyoor Post Office,
Thiruvananthapuram North Division.
Residing at Panavilaveedu, Kariyavattom,
Thundathil P.O., Thiruvananthapuram – 695 581.

...Applicant

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications & IT,
Department of Posts, New Delhi – 110 001.
2. The Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Assistant Director (Rectt.),
Office of the Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
4. The Superintendent of Post Offices,
Thiruvananthapuram North Division,
Thiruvananthapuram – 695 033.

...Respondents

(By Advocate – Mr.Thomas Mathew Nellimoottil,Sr.PCGC)

Original Application No.180/515/2017

Haris P.P.,
S/o.Muhammed P.P.,
Postman,
Calicut Head Post Office.
Residing at Kollarakkal Meethal,
Parannur P.O., Narikunni, Kozhikode – 673 585.

...Applicant

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

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1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications & IT,
Department of Posts, New Delhi – 110 001.
2. The Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Assistant Director (Rectt.),
Office of the Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
4. The Superintendent of Post Offices,
Calicut Division, Kozhikode – 673 003. ...Respondents

(By Advocate – Mr.S.Ramesh,ACGSC)

Original Application No.180/524/2017

1. Vincent S, S/o.Sanjoris,
Postman, Kerala Governor's Post Office,
Raj Bhavan, Thiruvananthapuram South Division.
Residing at Matha's House, Chowara P.O.,
Thiruvananthapuram – 695 501.
2. Naseeb.P.K., S/o.P.K.Rayin,
Postman, Calicut H.O., Kozhikode Division.
Residing at Paruthikunnnan House,
Eeranhimangad P.O., Nilambur,
Malappuram – 679 329.
3. Javeed.O.K., S/o.Hamza.O.K.,
Postman, Calicut H.O., Kozhikode Division.
Residing at Odakkal House,
Pookkottumpaadam P.O., Malappuram – 679 332.
4. Sharath.K., S/o.Ramesh K,
Postman, Palakkad H.O., Palakkad Division.
Residing at Anupama House,
Nellikode P.O., Kozhikode – 673 016. ...Applicants

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

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1. Union of India
represented by the Secretary to Government of India,
Ministry of Communications & IT,
Department of Posts, New Delhi – 110 001.
2. The Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Assistant Director (Rectt.),
Office of the Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
4. The Superintendent of Post Offices,
Thiruvananthapuram South Division,
Thiruvananthapuram – 695 036.
5. The Senior Superintendent of Post Offices,
Kozhikode Division, Kozhikode – 673 033.
6. The Senior Superintendent of Post Offices,
Palakkad Division, Palakkad – 678 001. ...Respondents

(By Advocate – Mr.E.N.Hari Menon,ACGSC)

These Original Applications having been heard on 31st July 2018, the Tribunal on 6th August 2018 delivered the following :

ORDER

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.Nos.180/361/2017, 180/392/2017, 180/515/2017 &
180/524/2017 are filed by various applicants seeking the benefit of the order
of this Tribunal in O.A.No.180/715/2014 which had since been upheld in
O.P.(CAT) No.147/2016 (Z) by the Hon'ble High Court of Kerala. It would
be useful to recall the facts in O.A.No.180/715/2014.

2. O.A.No.180/715/2014 was filed by Smt.Nisha K Joy, an athlete, assailing the decision of the department to appoint her as Postman and not as Postal Assistant on the ground that she did not obtain 60% marks in 10+2/12th Standard as required under Recruitment Rules 2011 promulgated on 3rd November 2011 (Annexure A-3). The selection had been conducted in pursuance to Annexure A-1 Notification dated 10th September 2012. However, the notification mentioned that the applications from eligible sports persons in earmarked disciplines were being invited against vacancies for the years 2004 to 2010 under sports quota. The contention of the applicant was that her eligibility was to be considered as per Recruitment Rules 2002 (Annexure A-2) which were in existence when the vacancies had occurred. The said Recruitment Rules mentioned only pass in 10+2/12th class as a necessary educational criteria. This Tribunal on hearing the O.A., decreed that appointments made in pursuance to Annexure A-1 notification would be subject to the outcome of the decision in the case. Subsequently the said O.A was allowed vide Annexure A-6 order dated 25.2.2016 which reads as follows :

“6. We direct that the applicant be selected for the post of Postal Assistant as per Annexure A-11 Recruitment Rules of 9.1.2002 as the vacancies relate to 2004-2010 wherein the 2002 Recruitment Rules were applicable. This exercise be completed within a period of one month from the date of receipt of a copy of this order. The O.A is allowed accordingly. In view of the order in the O.A., M.A.No.180/00198/2016 is closed. No costs.”

3. The respondents appealed against the said decision before the Hon'ble High Court by filing O.P(CAT) No.147/2016 (Z) which came to be dismissed at the admission stage itself with the Hon'ble High Court stating as follows :

“10. We find absolutely nothing wrong in the verdict passed by the Tribunal. The Department was not at all justified in clubbing all the vacancies under the 'sports quota' for the years from 2004 to 2010 together, to be filled up, by issuing Annexure A-7 notification, with reference to 'Annexure A-12 rules' which were brought into force after occurrence of the vacancies concerned. There is no retrospective operation for Annexure A-12 rules, which took its breath for the first time only from 03.11.2011. The vacancies which had occurred prior to the said date had to be filled up by applying Annexure A-11 rules (old rules).

In the above circumstances, the verdict passed by the Tribunal is perfectly within the four walls of law. Accordingly, interference is declined and the Original Petition stands dismissed. The direction given by the Tribunal shall be implemented within 'two months' from the date of receipt of a copy of this judgment.”

4. Smt.Nisha K Joy was granted appointment as Postal Assistant accordingly.

5. The four O.As are filed by aspirants for vacancies under 'sports quota' that arose between 2004 and 2010 and who are eligible as per Recruitment Rules of 2002 but not as per Recruitment Rules 2011 as they did not get 60% marks in 10+2/12th Standard. Thus they are all similarly placed as the applicant in O.A.No.180/715/2014.

6. O.A.No.180/361/2017 is filed by Shri.Joseph Varghese, who being similarly placed, filed Annexure A-8 representation before the 2nd respondent seeking the benefit of Annexure A-6 and Annexure A-7 judgments. On getting no reply to the said representation he approached this Tribunal with O.A.No.180/167/2017 which the Tribunal was pleased to disposed of, directing the 2nd respondent to consider and pass orders on Annexure A-8 representation. However, by order dated 10.4.2017, the 2nd respondent chose to reject the claim of the applicant. The applicant refuted the 2nd respondent's contention that he did not fulfill the educational criteria as well as the age criteria.

7. O.A.No.180392/2017 is filed by Shri.Subin B who also seeks the relief of Annexure A-6 and Annexure A-7 judgments and the benefits extended to the applicant in O.A.No.180/715/2014. He states his representation also was rejected on the ground that he does not qualify for any relaxation of education and age criteria due to GDS candidates to which category the applicant in O.A.No.180/715/2014 belonged. The 2nd respondent while issuing the impugned order refused to consider the fact that the criteria for GDS candidates and candidates from open market are the same. The applicant is well within the 18-25 years category required under Recruitment Rules, 2002.

8. O.A.No.180/515/2017 is filed by Shri.Haris.P.P., another claimant for the same benefit as accorded to the applicant in O.A.No.180/715/2014. He is aggrieved by the inaction of the 2nd respondent on his representation at Annexure A-8. The silence on the part of the 2nd respondent can only lead him to conclude that the said respondent is intent on denying him the benefit granted to the applicant in O.A.No.180/715/2014.

9. O.A.No.180/524/2017 is filed by Shri.Vincent.S and three others seeking the relief as in the other O.As referred to above. They state that they are eligible under the Recruitment Rules of 2002 and the respondents cannot rule them out on the new educational criteria mentioned in Recruitment Rules, 2011 while considering vacancies for the year 2004 to 2010.

10. Respondents in four O.As have filed reply statement which are near identical in facts. It is contended that the applicant in each of these O.As is differently placed from the beneficiary in O.A.No.180/715/2014 in terms of the post they had applied for and the sports discipline they had chosen. The recruitment of outstanding sports persons is allowed only for a maximum of 5% of the vacancies subject to the condition that all reservations put together do not exceed 50%. It is further argued that the applicants had all since joined in the lower category without any demur and would be now estopped from challenging the recruitment process. Besides

it is maintained that the Hon'ble High Court of Kerala and this Tribunal had not quashed the notification nor had issued any directions to revise the selection procedure.

11. In all four O.As Smt.Rekha Vasudevan, learned counsel represented the applicants. Shri.Sinu G Nath,ACGSC appeared for respondents in O.A.No.180/361/2017, Shri.Thomas Mathew Nellimoottil, Sr.PCGC appeared for respondents in O.A.No.180/392/2017, Shri.S.Ramesh,ACGSC appeared for respondents in O.A.No.180/515/2017 & Shri.E.N.Hari Menon, ACGSC appeared for respondents in O.A.No.180/524/2017. Heard all the learned counsel and perused the documents on offer.

12. All the applicants are claiming similar placement as the beneficiary in O.A.No.180/715/2014. The issue whether the recruitment is to take place as per Recruitment Rules of 2002 or Recruitment Rules of 2011 has been finally settled with the Hon'ble High Court agreeing with the order of the Tribunal that it would be the 2002 Recruitment Rules which will hold the field. This position having been settled, the respondents are required to examine the eligibility of the applicants in the four O.As in terms of other factors such as percentage of sports quota candidate, age etc. While contesting the case, the reply statements submitted by the respondents have been less than direct in addressing these elements which according to them also stood in the way of the applicants being selected. This clearly is not

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acceptable. Hence this Tribunal would direct the 2nd respondent to consider the applicants in all the four O.As as possessing the necessary educational qualification having passed 10+2/12th Standard. There is a tabulated marksheet which has been annexed with the reply statement. Without obfuscating the issue the 2nd respondent shall clearly analyse the eligibility of the applicants in these four O.As with reference to the performance in the selection and consider them for appointment to the categories to which they have applied for.

13. O.A.Nos.180/361/2017, 180/392/2017, 180/515/2017 & 180/524/2017 are disposed of as above. The directions contained are to be implemented by the 2nd respondent within 30 days from the date of receipt of a copy of this order. No costs.

(Dated this the 6th day of August 2018)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00361/2017

- 1. Annexure A-1** – A true copy of the Notification No.Rectt/31-4/2008 dated 10.9.2012 issued by the 3rd respondent.
- 2. Annexure A-2** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002.
- 3. Annexure A-3** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) (Group C Non Gazetted) Recruitment Rules 2011.
- 4. Annexure A-4** – A true copy of the Memo No.B3 Rectt/Sports Quota/2008 dated 23.10.2014 issued by the 3rd respondent.
- 5. Annexure A-5** – A true copy of the order dated 26.9.2014 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.
- 6. Annexure A-6** – A true copy of the final order dated 25.2.2016 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.
- 7. Annexure A-7** – A true copy of the judgment dated 31.5.2016 in O.P. (CAT) No.147 of 2016 (Z) of the Hon'ble High Court of Kerala.
- 8. Annexure A-8** – A true copy of the representation dated October 2016 submitted by the applicant to the 2nd respondent.
- 9. Annexure A-9** – A true copy of the final order dated 3.3.2017 in O.A.No.180/167/2017 of this Hon'ble Tribunal.
- 10. Annexure A-10** – A true copy of the Memo No.Rectt/31-4/OA187/2017 dated 10.4.2017 issued by the 2nd respondent.
- 11. Annexure R-1** – True copy of the Department of Posts (Postal Assistant & Sorting Assistants) (Group C Non Gazetted) Recruitment Rules 2011.
- 12. Annexure R-2** – True copy of the Postal Directorate instructions dated 25.7.1990.

List of Annexures in O.A.No.180/00392/2017

- 1. Annexure A-1** – A true copy of the Notification No.Rectt/31-4/2008 dated 10.9.2012 issued by the 3rd respondent.
- 2. Annexure A-2** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002.

3. **Annexure A-3** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) (Group C Non Gazetted) Recruitment Rules 2011.
4. **Annexure A-4** – A true copy of the Letter No.B3 Rectt/Sports Quota/2008 dated 23.10.2014 issued by the 4th respondent.
5. **Annexure A-5** – A true copy of the order dated 26.9.2014 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.
6. **Annexure A-6** – A true copy of the final order dated 25.2.2016 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.
7. **Annexure A-7** – A true copy of the judgment dated 31.5.2016 in O.P. (CAT) No.147 of 2016 (Z) of the Hon'ble High Court of Kerala.
8. **Annexure A-8** – A true copy of the representation dated 26.7.2016 submitted by the applicant to the 2nd respondent along with the Acknowledgement Card.
9. **Annexure A-9** – A true copy of the final order dated 10.3.2017 in O.A.No.180/187/2017 of this Hon'ble Tribunal.
10. **Annexure A-10** – A true copy of the Memo No.Rectt/31-4/OA167/2017 dated 10.4.2017 issued by the 2nd respondent.

List of Annexures in O.A.No.180/00515/2017

1. **Annexure A-1** – A true copy of the Notification No.Rectt/31-4/2008 dated 10.9.2012 issued by the 3rd respondent.
2. **Annexure A-2** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002.
3. **Annexure A-3** – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) (Group C Non Gazetted) Recruitment Rules 2011.
4. **Annexure A-4** – A true copy of the Memo No.Rectt/31-4/2008 dated 21.8.2014 issued by the 3rd respondent.
5. **Annexure A-5** – A true copy of the order dated 26.9.2014 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.
6. **Annexure A-6** – A true copy of the final order dated 25.2.2016 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.

7. Annexure A-7 – A true copy of the judgment dated 31.5.2016 in O.P. (CAT) No.147 of 2016 (Z) of the Hon'ble High Court of Kerala.

8. Annexure A-8 – A true copy of the representation dated 20.3.2017 submitted by the applicant to the 2nd respondent.

9. Annexure R-1 – A true copy of the Postal Directorate instructions dated 25.7.1990.

List of Annexures in O.A.No.180/00524/2017

1. Annexure A-1 – A true copy of the Notification No.Rectt/31-4/2008 dated 10.9.2012 issued by the 3rd respondent.

2. Annexure A-2 – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002.

3. Annexure A-3 – A true copy of the Department of Posts (Postal Assistants and Sorting Assistants) (Group C Non Gazetted) Recruitment Rules 2011.

4. Annexure A-4 – A true copy of the Memo No.Rectt/31-4/2008 dated 21.8.2014 issued by the 3rd respondent.

5. Annexure A-5 – A true copy of the order dated 26.9.2014 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.

6. Annexure A-6 – A true copy of the final order dated 25.2.2016 in O.A.No.180/00715/2014 of this Hon'ble Tribunal.

7. Annexure A-7 – A true copy of the judgment dated 31.5.2016 in O.P. (CAT) No.147 of 2016 (Z) of the Hon'ble High Court of Kerala.

8. Annexure A-8 – A true copy of the representation dated 15.2.2017 submitted by the 1st applicant to the 2nd respondent.

9. Annexure A-9 – A true copy of the final order dated 3.3.2017 in O.A.No.180/166/2017 of this Hon'ble Tribunal.

10. Annexure A-10 – A true copy of the Memo No.Rectt/31-4/OA166/2017 dated 18.4.2017 issued by the 2nd respondent.
