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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00792/2014

Friday, this the 29th day of November, 2018

CORAM:

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

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

1. Saju Mathew,
aged 39 years,
S/o M.C.Mathai,
Postman, Kangazha P.O.,
Changanassery Postal Division,
Changanassery,
Residing at: Karikombil House,
Kadayanickadu, Changanassery Taluk,
PIN: 686 541.
 2. Mathew Sebastian
Aged 53 years,
S/o E.C.Sebastian,
Postman, Kootickal S.O.,
Changanassery Postal Division, Changanassery,
Residing at: Edackttu House,
Elankadu P.O., Kootickal, Kanjirapally Taluk,
Kottayam District.
 3. Ajitha Mani D.,
Aged 44 years,
W/o Ajikumar,
Postman, Changanassery H.O,
Residing at: Pavithram House,
Kunnamkarry P.O.,
Perunna,
Changanassery -686 102.
-Applicants

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

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1. The Union of India by
The Secretary to the Government of India &
Director General of Posts,
Ministry of Communications &
IT (Department of Posts),
Dak Bhavan,
Sansad Marg,
New Delhi – 110 116.
2. The Chief Post Master General,
Kerala Postal Circle ,
Thiruvananthapuram -695 033.
3. The Superintendent of Post Offices,
Changanassery Postal Division,
CHANGANASSERY -686 101. ...Respondents

(By ACGSC, Mrs.P.K.Latha for Respondents)

This application having been heard on 26th November 2018, the Tribunal on 29th November, 2018 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The applicants are Postman in Pay Band-1 of Grade Pay Rs.2000/- working in the Changanassery Postal Division. They are aggrieved by denial of promotion to the post of Postal Assistant on what is alleged to be erroneous calculation of vacancies. They are also aggrieved by the order at Annexure A8 rejecting Annexure A7 representation submitted in pursuance to the order of this Tribunal in OA No.803/2012. The reliefs sought in the OA are as follows:

- (i) Call for the records leading to the issue of Annexure A2 and quash the same to the extent it notifies only one vacancy for promotion as Postal

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Assistant in the Changanassery Postal Division of Kerala Circle,

- (ii) Call for the records leading to the issue of A8 and quash the same;
- (iii) Direct the respondents to consider and promote the applicants against the vacancies that were in existence against 50% promotional quota and direct further to grant all consequential benefits emanating there from;
- (iv) Award costs of the incidental to this application;
- (v) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.

2. The applicants had initially joined the department as Extra Departmental Employees/Gramin Dak Sevaks and were appointed on regular basis as Postman with effect from 30.06.2007, 02.08.2004 and 30.06.2007 respectively. In terms of the Department of Posts, (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002, 50% of the vacancies in the cadre of Postal Assistants have to be filled by direct recruitment and remaining 50% by promotion by way of Limited Departmental Competitive Examination (LDCE), failing which by offering the vacancies to Gramin Dak Sevaks for promotion of the regular employees with 3 years regular service in the category lower to that of Postal Assistants. A true copy of Recruitment Rules is at Annexure A1.

3. Applicants submit that the respondents had issued a circular inviting applications for the vacancies for 2011 as per Annexure A2. The total number of vacancies intimated for promotion is only one. The applicants appeared for the examination but the respondents did not publish the results

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of the examination. However, as per details obtained through RTI (Annexure A3) the three applicants are seen to have passed the examination.

4. The applicants understand that during the last few years the total number of candidates appointed on direct recruitment as Postal Assistants were 50, whereas the total number of vacancies notified for promotional quota were only 14. According to the applicants, this is because the respondents were applying post based roster for filling up of vacancies to the cadre of Postal Assistants. This is not admissible as per existing Rules.

5. Aggrieved by the turn of events the applicants approached this Tribunal by filing OA No.803/2012 and the said OA was disposed of by an order dated 11.12.2013 directing the applicants to approach the Respondent-2 through a representation (Annexure A6). The said representation filed by the applicants on 7.1.2014 came to be rejected by an order issued from the office of the 3rd respondent. A copy of which is at Annexure A8. The applicants' primary contention is relating to the assessment of the vacancies for LDCE quota. They oppose the details furnished in Para-4(ii) of Annexure A8 as erroneous. No details regarding number of persons who have been promoted under promotional quota and number of vacancies filled up by GDS quota are provided. The opaque manner in which the entire process has been conducted casts doubt in the mind of the applicants that their rights are being denied.

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6. The respondents have filed a detailed reply statement wherein they have drawn attention of the Tribunal to the relevant portion of the Recruitment Rules which states that 50% of the Postal Assistant posts are to be kept aside for Direct Recruitment and the remaining 50% is to be by promotion through LDCE, failing which the unfilled vacancies are to be offered to GDS of the Recruiting Divisions and if vacancies remain unutilised, they shall be filled by subsequent direct recruitment from open market candidates.

7. The reply in short states that the applicants in question have not qualified in the examination and the information passed through Annexure A3 only indicates that 11 participants had appeared for LGO examination and had obtained such and such marks. While the applicants claim that all three had qualified as per Annexure A3 intimation, the respondents submit that as per the table provided underneath each year after providing for successful candidates in the LDCE the remaining vacancies are added to the quota for direct recruitment.

Year	Total no. of Vacancies arose	Vacancies earmarked for promotion quota	No. Qualified in LDCE	Vacancies filled
2006	8	5	Nil	Nil
2007	12	8	1	1

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2008	11	7	2	2
2009	09*	5	3	4*
2010	08*	4	1	4**
2011	03***	1	1	1

* (Including On surplus candidates from Kotayam Dn)

** (Including 2 surplus candidates from Kottayam Dn and One from mavelikara)

*** (Actually 2 vacancies and the third one was on 23/11/11 after the LGO exam)

They state that only one vacancy under these circumstances was available for promotion quota. The applicants' claim that there are 40 vacancies to be filled up under Departmental quota, 2011 is without any basis.

8. Smt.Kala, learned Counsel appeared on behalf of the applicant and Smt.P.K.Latha, ACGSC on behalf of the respondents. The applicants' case is built around the argument that there has been a huge shortfall in the quota allotted to assessment for promotion as Postal Assistants. The respondents have been diverting all unfilled vacancies for Direct Recruitment ignoring the rightful claims of the applicants. According to communications at Annexure A3 the three applicants had all been successful in the examination, but do not find a place in the list for promotion.

9. Smt.P.K.Latha on the other hand relied on the averments made in the reply statement stating that all vacancies which could not be filled up due to non qualification of examinees were diverted for Direct Recruitment over the years as sanctioned by Recruitment Rules in vogue. This leaves only one vacancy for promotion quota for 2011. Accordingly, one candidate Shri

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Ummer Kutty P.M, whose name figures in Annexure A3 list, was promoted

10. We have considered the rival contentions. It would be useful to quote the relevant part of the Recruitment Rules, copy of which is available at Annexure A1.

- 11(a) 50% by direct recruitment.
- (b) 50% by promotion through a Limited Departmental Competitive Examination failing which the unfilled vacancies shall be offered to Gramin Dak Sevaks of the Recruiting Divisions or Units subject to their fulfilling the following conditions, and if vacancies remain unutilized by the Gramin Dak Sevaks, they shall be filled by subsequent direct recruitment of other open market candidates, fulfilling the age and qualification conditions laid down in Columns 7 and 8:-

11. Taking this, along with the contentions of the respondents that Annexure A3 is not a list of qualified candidates but merely that of persons who appeared for examination, we cannot come to any conclusion that Rules governing promotion have been violated. Perhaps it can be argued that there is inequity in the reservation for promotion for the post of Postal Assistant. However, the Rule governing the same is specifically spelt out in the Recruitment Rules which is in vogue. The respondents have followed the provision. In any case the applicants have not challenged the Recruitment Rules. They only claim that they had qualified in the examination whereas there is no document available before us to state that it is so.

12. After examining the case in detail, we are of the view that this does not

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merit interference from the side of the Tribunal. The OA is dismissed. No costs.

(Dated this the 29th day of November 2018).

**(ASHISH KALIA)
JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00792/2014

1. **Annexure A1** – True copy of the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 2002, issued from the office of the 1st respondent.
 2. **Annexure A2** – True copy of the Circular bearing No.B/10-18/2011 dated 20.07.2011 issued from the office of the 3rd respondent.
 3. **Annexure A3** – Letter bearing No.Rectt/10-3/2011/VI dated 25.07.2012 issued from the office of the 2nd respondent.
 4. **Annexure A4** – True copy of the Government of India, Office Memorandum bearing No.14017/2/1997-Estt(RR) dated 19th January, 2007.
 5. **Annexure A5** – True copy of reply statement dated 04 May 2012 filed on behalf of the 2nd respondent Chief Post Master General in OA No.881/2011, less its Annexures.
 6. **Annexure A6** – True copy of the order dated 11 Dec 2013 in OA No.803/2012 rendered by this Hon'ble Tribunal.
 7. **Annexure A7** – True copy of the joint representation, addressed to the 2nd respondent dated 07.01.2014.
 8. **Annexure R1** – True copy of the Circle Office Thiruvananthapuram Letter No.Rectt/4-3/Review/E & V/2012 dated 17.07.2012.
 9. **Annexure R2** – True copy of the order of Hon'ble Tribunal in OA 211/2011.
 10. **Annexure R3** - True copy of the judgement of Hon'ble High Court of Kerala in the OP(CAT) 1072/2013.
 11. **Annexure R4** – True copy of the order dated 21.11.2007 in OA 260/2007.
 12. **Annexure R5** – True copy of the order dated 11.01.2013 in OA 869/2012 is produced herewith and marked as
 13. **Annexure R6** – True copy of the order dated 07.11.2017 in OA 284/2014.
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