

OA.No.170/00216/2017/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00216/2017

DATED THIS THE 10TH DAY OF AUGUST, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

1. Sri S.N. Sreenivasa Rao,
S/o late S.V. Nagarja Rao,
Aged 57 years,
Working as Superintendent (Admn.)
SCPC NSSO, CSB, Santhe Maidana,
Kunigal – 572 130, Tumkur District

2. A. Venkata Rao,
S/o late Aswataranmiah Rao
Aged 54 years
Working as Assistant Superintendent (Admn.)
Central Silk Board
B.T.M. Layout

Bangalore – 560 068

3. M. Indrani,

W/o Shri T. Jayappa

Aged 52 years

Working as Assistant Superintendent (Admn.)

Central Silk Board

B.T.M. Layout

Bangalore – 560 068

4. N.S. Nagaraj

S/o late Seshagiri Rao,

Aged 58 years,

Working as Assistant Superintendent (Admn.)

National Silkworm Seed Organiation,

Central Silk Board

B.T.M. Layout

Bangalore – 560 068

5. M.N. Suresh

S/o C.B. Narahari Rao

Aged 58 years

Working as Assistant Superintendent (Admn.)

Silkworm Seed Production Centre

Opp. To Hosamath Polytechnic

Manandawadi Road

Mysore 570 008

6. Smt. S. Usha,

W/o S.V. Sathyanarayana Setty,

Aged 54 years,

Working as Assistant Superintendent (Admn.)

SSTL NSSO, CSB, Carmelram Post,

Kodathi, Bangalore – 560 035

.....Applicants

(By Advocate Shri Ranganatha S. Jois)

Vs.

1. The Union of India
Rep by its Secretary,

Department of Textile,

Government of India,

Udyog Bhavan,

Maulana Azad Road,

New Delhi – 110 001.

2. Central Silk Board,

Rep. By its Secretary,

Ministry of Textiles,

CSB Complex, BTM Layout,

Madiwala, Bangalore – 560 068

....Respondents

(By Shri B. Vishnu Bhat, Senior Panel Counsel)

O R D E R (ORAL)(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The applicant claims ACP on the basis that one promotion which was given to him was obtained through Limited Departmental Competitive Examination and that is covered by the explanation given by the DoPT in F. No 35034/1/97-Estt(D)(Vol.IV) dated 10.02.2000. In Clause 8 of which, in compliance with our order passed in Jodhpur Bench, the DoPT had treated that persons appointed from amongst LDCs to the next posting should be treated as direct recruits and not in the respective higher grades. The Jodhpur Bench judgment was in relation to the appointment of a GDS as Postman after a departmental competitive examination. The GDS and Postman are two exclusively distinct and different zones of employment. GDS are not regular employees of the department. They are outsiders in every respect. They write an examination which has all the hallmark of a competitive examination for direct recruits and then become eligible and that is why we had said in that order that they should be treated as direct recruits but then because of their earlier service that also may be tagged on it as a peculiar situation arising in that particular department only.

2. In this case Shri Ranganatha Jois, learned counsel for the applicant, submits that there are two elements and streams of promotion which is under LDCE and the regular promotional pattern. A percentage is retained for Limited

Departmental Competitive Examination so that other than seniority the yardstick of suitability may also be brought in in greater public interest but still the fundamentals of these are promotions only, because, if it is to be a competitive examination, then general public also must be able to have an opportunity of writing this examination. These are reserved only for departmental candidates in the same stream of governance and nowhere else. Therefore it has no connection whatsoever with the distinction between the GDS and a Postman. That being so, this also will be considered as a promotion and the DoPT circular to this effect is now clarified as whether as an LDC or a UDC it is the same stream of employment and hence only promotion. This explanation in Clause 8 in the said circular issued by DoPT relates in essence to promotion of GDS to Postman or a like situation and not in the case of all employees. We are not quashing the same for this reason that it has an application in other cases but not in this case as whether it will be limited or not it is still an intra-departmental examination. Therefore it will be considered as a promotion and therefore the applicant is not eligible for ACP.

3. The OA is dismissed. No order as to costs.

(DINESH SHARMA)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00216/2017

Annexure A1 Copy of the Cadre and Recruitment Rules

Annexure A2 Copy of the OM dated 10.02.2000
Annexure A3 Copy of the representation dated 08.03.2013
Annexure A4 Copy of the representation dated 08.03.2013
Annexure A5 Copy of the representation dated 07.03.2013
Annexure A6 Copy of the letter dated 10.06.2016
Annexure A7 Copy of the FR File No. 32011/1/2013-Silk
Annexure A8 Copy of the letter dated 18.02.2013
Annexure A9 Copy of the letter dated 22.03.2013
Annexure A10 Copy of the endorsement dated 24.03.2015

Annexures with reply statement

Annexure R1 Copy of the circular dated 12.12.1986
Annexure R2 Copy of the list of Lower Division Clerks
Annexure R3 Copy of the Memorandum dated 31.05.1985
Annexure R4 Copy of the ACP Scheme
Annexure R5 Copy of the letter dated 27.02.2015

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