

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00928/2016

DATED THIS THE 28TH DAY OF JULY, 2017

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

HON'BLE SHRI P. K. PRADHAN, MEMBER (A)

Arun N. Kamat,
Age: 43 years,
S/o Narayan N. Kamath,
Working as Office Assistant,
O/o Superintendent of Post Offices,
Sirsi Postal Division,
Sirsi – 581 402,
Residing at:
Dodly Bhavi Oni,
Near Marikamba Temple,
Sirsi – 581 401.

... Applicant

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary,
Department of Post,
Dak Bhavan,
New Delhi-110 001.

2. Post Master General,
N.K. Region,
Dharwad – 580 001.

3. Chief Post Master General,
Karnataka Circle,
Bangalore-560001.

4. Superintendent of Post Offices,
Sirsi Postal Division,
Sirsi-581402.

... Respondents

(By Shri S. Prakash Shetty, Senior Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

Heard. There were total 13 vacancies in which 11 were earmarked for OC and 2 for SC. The applicant was the 14th in the list or in other words the next eligible in the line. At this point of time, two persons belonging to OC category who were selected declined. Therefore the applicant's chance to be considered came next.

2. But in the meanwhile there was some mistake found out in the Answer Keys and therefore they re-considered it. Now the respondents files a reply stating that the last OC candidate had secured 820 marks and the applicant, even though is the next in line and there were 13 vacancies going by the paragraph 2 of the reply, had secured only 808 marks. Apparently, the applicant had filed a representation which was considered and rejected by the concerned authority by a speaking order dated 09.03.2016. Now the case put forth by the respondents is that the application is barred by limitation. The case put forth by the respondents is that "the law laid by the Supreme Court is that the aggrieved persons should agitate for their grievance within the period of limitation which starts from the existence from the cause of action and not from the rejection of their representations". This quite obviously is a correct view but only a small problem is that applicant now says that he was not made aware of the declining of the selection by the two selected candidates in the OC list and therefore there was no way for him to know that a opening had been held open by the respondents. If they had published it in notice board, then he could

have come to know about it. But even otherwise also when the applicant is next in line the respondents had salutary duty imposed on them to be fair and, even without asking, to consider the applicant for the post. Therefore there cannot be any doubt applicant is eligible for the next available vacancy. For the lacunae and prejudice of the respondents, there is no need for the applicant to suffer. Therefore the question of limitation will not arise at all as it will be foreshadowed by the question of merit. When an examination is held, it is the duty of the concerned officials to inform the result as early as possible so that the parties thereto will know about the rights or not as the case may be. There is no ground anywhere mentioned in the reply that they have informed the applicant and thereafter he had taken steps. Even otherwise also applicant cannot take any steps because the steps lies exclusively in the domain of the respondents. Therefore the failure is on the part of the respondents and not on the applicant. Therefore with the declaration that applicant is next in line following the selection, we will issue a mandate to the respondents to consider the applicant if he is otherwise eligible for the post and if so grant appointment within the next two months.

3. OA is allowed. No order as to costs.

(P. K. PRADHAN)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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