

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00280/2018

Jabalpur, this Friday, the 23rd day of March, 2018

HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Ashok Kumar Jain, S/o D.C. Jain, DOB : 02.02.1962, Working as Superintendent of Post Offices, Rewa, R/o – Head Post Office Campus Hostel Colony, Sirmau Chowk, Rewa – 486001 (M.P.)

-Applicant

(By Advocate – Shri Vijay Tripathi)

V e r s u s

1. Union of India through its Secretary, Ministry of Communication & IT, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Director General of Post Offices, Dak Bhawan, Sansad Marg, New Delhi – 110001.
3. Director (Staff), Department of Post, Personal Division, Ministry of Communication & IT, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110001.
4. Chief Post Master General, M.P. Circle Dak Bhawan, Hoshangabad Road, Bhopal 462012 (M.P) **-Respondents**

(By Advocate – Shri Surendra Pratap Singh)

O R D E R (O R A L)

Through the present Original Application, the applicant is calling in question the action of the respondents in not appointing him in the cadre of PS Group-B in view of the order passed by the

Hyderabad Bench of the Tribunal in O.A. No.554 of 2013 (**Konidela Ramesh Babu & Ors. vs. Union of India & Ors.**), decided on 10.03.2015, which has been affirmed by the Hon'ble High Court of Judicature at Hyderabad in WP No.25931/2015 and subsequently upheld by the Hon'ble Supreme Court in SLP No.24725/2017 dated 10.10.2017.

2. Precisely, in this case, the issue is regarding the calculation of post to be filled up as per the Recruitment & Promotion Rules from the various channels. The main issue is whether the posts are to be advertised on the basis of post based roaster of the cadre or on the basis of the vacancies at the relevant time, i.e. at the time of advertisement. Now, the settled law is that as per R&P Rules, the posts are to be advertised from the existing position of the vacancy.

3. In the present O.A, the applicant has sought for setting aside the revised notification dated 27.05.2011 (Annexure A-2).

4. On the other hand, learned Sr. Central Govt. Standing counsel for the respondents submits that this O.A is not maintainable because the applicant has approached this Tribunal in the year 2018, and therefore, the O.A is barred by limitation.

5. The case of the applicant is that though the case pertains to the year of 2011 and he was selected, but in the meantime, the Chandigarh Bench of the Tribunal, in OA No.399/PB/11 (**All India Association of IPASP, Punjab Circle Headquarters, Chandigarh & Ors. vs. Union of India & Anr.**) has passed the order on 26.05.2011, which was not on merit and based upon the instructions issued by the Department of Personnel & Training vide Annexure A-9 dated 19.01.2007, this issue remained pending. Thereafter, due to the misinterpretation of the instructions issued by the DoP&T, the calculation has been made wrongly and the vacancies in the General category were reduced. But now, the law has been settled by the Hyderabad Bench of this Tribunal, which has also been upheld by the Hon'ble High Court and Supreme Court. The applicant, as per Annexure A-12, has made a detailed representation on 16.02.2018 to the respondent No.1, which is yet to be decided.

6. At this stage I am of the view that the respondents can be directed to decide the representation of the applicant dated 16.02.2018 (Annexure A-12), whereby all the issues regarding the grievance of the applicant in this O.A, have been raised. So far as question of limitation is concerned, which has been raised by the

learned Sr. Central Govt. Standing counsel for the respondents, the same can be raised later. Resultantly, respondent No.1 is directed to consider and decide the representation of the applicant dated 16.02.2018 (Annexure A-12) and to pass a reasoned and speaking order, within a period of three months from the date of receipt of a certified copy of this order. Needless to say that this Court has not given any opinion on the merits of the case.

**(Ramesh Singh Thakur)
Judicial Member**

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