

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.664/2015.

Dated this Friday the 22nd day of June, 2018.

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)

1. Praful Suryakant Karalkar
Working as MMS Driver,
Worli Depot – 400 018.
R/at 3/1, Satery Housing,
Shivkrupa Nagar, Bhandup (E),
Mumbai 400 042.
2. Rakesh Shankar Pandere
Working as MMS Driver,
Sion Koliwada Depot – 400 037.
R/at 302, Shree Ashraya Society,
Plot No.412, Sector-10,
New Panvel – 410 206.
3. Ganesh Gorakh Thorat
Working as MMS Driver
GPO Depot – 400 001.
R/at Room No.3003, Devi Krupa
Society No.5, Ram Narkar Marg,
Gauri Shankarwadi No.1., Pant
Nagar Ghatkopar (E),
Mumbai 400 075.
4. Rajaram Yashwant Chichkar
Working as MMS Driver
Airport Depot-400 099.
R/at Swanant CHS, B-207,
Tania Town, Raj Nagar,
Nalasopara (E) 401 209.
5. Shantanu Yeshwant Navale
Working as MMS Driver
Airport Depot – 400 099.
R/at Bldg No.H-19, 302,
Press Enclave, Kapil Chamber,
MHADA Colony, Pratiksha Nagar,
Sion (E), Mumbai 400 022.

6. Amar Krishna Shirke
Working as MMS Driver
Airport Depot 400 099.
R/at at C/5, Room No.58,
Krushnai Sahyadri Nagar,
Charkop Kandivali (W),
Mumbai 400 067.
7. Santosh Bhanudas Raskar
Working as MMS Driver
Sion-Koliwada Depot-400 037.
R/at Subash Nagar, Behind Bldg.
No.52, Near Acharya College,
Chembur Govandi Road, Chembur,
Mumbai 400 071.
8. Vinayak Shivaji Ghadge
Working as MMS Driver,
Sion-Koliwada Depot – 400 037.
R/at Chawl No.B/136, Room No.5,
Jijamata Nagar, G.D. Ambedkar Marg
Kala Chuki, Cotton Green
Mumbai 400 033.
9. Dhyneshwar Tukaram Jadhav
Working as MMS Driver
Worli Depot – 400 018.
R/at Room No.2, Gaikwad Chawl,
Kisan Nagari, Penkarpada,
Post Mira Dist. Thane 401 107.
10. Harshad Anil Karane
Working as MMS Driver
Worli Depot 400 018.
R/at BDD Chawl No.19,
Room No.15, Ground Floor,
Dr. G M Bhosle Marg,
Worli, Mumbai 400 018.
11. Santosh Shyamrao Desai
Working as MMS Driver
GPO Depot – 400 001.
R/at At Post Girgaon, Post
Hedavade, Taluka Bhudargad,
Dist. Kolhapur 416 223.

... *Applicants*

(By Advocate Ms. Priyanka Mehndiratta)

Versus

1. The Union of India, through
The Secretary, Dept. of Posts,
Ministry of Telecommunication & IT
Dak Bhawan, Sansad Marg,
North Block, New Delhi 110 001.
2. The Chief Post Master General,
Maharashtra Circle,
GPO, WH Marg, Mumbai 400 001.
3. The Senior Manager
Mail Motor Service
134-A, S.K. Ahire Marg,
Opp. Mumbai Doordharshan
Worli, Mumbai 400 018.
4. Prashant Mahadeo Shinde (Roll No.2172)
5. Shr Rajeshkumar Ramchandra Gujar (Roll No.806)
6. Shri Mangesh Popat Gaikar (Roll No.566). ... **Respondents**
(All Respondents at sr.no. 4 to 6 to be served through
Respondent No.3.)
(By Advocate Shri R.R. Shetty)

ORDER

Per : Smt. P. Gopinath, Member (A)

This OA has been filed by 11 Applicants. During hearing, the learned counsel for the applicants submitted that the case is being pursued by 3 applicants only, listed at sr.nos.3, 4 & 10. In the chart of attendance showing number of present days of the applicants, it is noticed that a few applicants did not attend office at all after filing of the OA.

2. The Applicants are MMS Drivers working on contract with the respondents for

4 to 5 years. Applicant 3 & 10 appeared in the test for recruitment of Drivers and did not succeed in the same. Applicants have appeared in the Driving test in pursuance of Notification dated 10.03.2014 and did not succeed and were continued on contract basis. A complaint was registered with the Minister of Telecommunication & IT and a Committee was appointed to conduct the Driving test. The Applicants grievance is that the recruitment and selection process has been made in an unfair manner. The prayer of the applicants is for quashing the results dated 26.10.2015 to the extent of non-inclusion of names of the applicants. The second prayer of the applicants is for re-initiating the selection process.

3. The Respondents in the reply statement submit that a Notification was issued on 14.11.2014 for 23 vacancies of Drivers and the applicants have duly participated in the selection process. Applicant nos.1, 4, 7 & 8 had passed the written and Driving test but were not selected as they were low in merit. By an interim order of the Tribunal, the

respondents were directed not to disturb the services of the applicants and allowed them to continue in contract service.

4. Applicants are contractual Drivers, engaged through a Contractor who had been approved through a Tender process for supply of Drivers. Subsequently a Notification was issued by the respondents for filling-up 21 posts of Drivers on regular basis. In response, 5271 applications were received which included 11 applicants, who had originally filed this OA. In addition, 59 ex-servicemen had also applied for the post. 117 applications were received from Employment Exchange bringing the total of all applications to 5447. The Applicants had no grievance till the declaration of results. Neither did they make any complaint during the recruitment process. Applicants grievance arose only after declaration of the results.

5. The Respondents submit that the Mail Motor Service is engaged in the work of transportation of public mails through departmental vehicles. There are 208 Drivers in this unit. Due to non-filling up of

vacant post of Drivers, the public service was affected. Hence a Contractor was engaged through a tender process for a period of 12 months to supply Drivers who would run the vehicle till such time as vacant posts were filled. In the year 2014, 21 vacant posts under the direct recruitment quota were filled. However, 23 vacant posts under the departmental quota remained un-filled as no departmental candidates applied for the post of Driver. These 23 departmental quota posts were, as per Recruitment Rules, converted into direct recruitment quota and notification was issued on 18.11.2014 to fill-up the posts. 28 contractual drivers engaged through a Contractor applied in response to the Notification for the post. Of these 8 contractual drivers were selected for the post of Driver as they fulfilled all conditions, passed all the tests and were placed in merit in the select list.

6. Hence, the above 2014 recruitment was a selection in which the applicants had participated and failed to qualify or did not make the merit rank justifying their selection. Some of the applicants in the OA

have also stated that they had less experience than that stipulated in the Recruitment Rules and notified in the vacancy Circular. The selection of Drivers is made as per stipulation in the notified Recruitment Rules and not on the basis of length of service under contractual engagement. However, contractual persons participated in the recruitment process as outsiders as per provisions of the Recruitment Rules. Candidates were required to have 4 years driving experience of light/heavy motor vehicles of which atleast one year experience should be of driving heavy motor vehicles. In the call letter for the written examination, candidates were required to produce Xerox copies of the experience certificate.

7. The written examination was conducted on 23.08.2015 as per rules to judge candidates ability to read and write local language, make simple arithmetic calculations, translate from Marathi to Hindi and vice versa. The test was intended as a literacy test of Middle standard pass.

8. In view of the large number of applicants, there were many who were 8th, 10, 12, B.A, Diploma pass etc. Hence, the standard of education of persons who had applied for the post was much more than the stipulated educational qualification and for such persons the written exam would have been a simple one.

9. Following the written test, applicants at sr.nos. 1, 4, 7 & 8 were called for a driving test along with other qualified candidates and they passed the driving test. The recruitment process was a competitive one, comprising of a written test and a driving test, and the selection was based on merit arrived at through the composite written and driving test. Whereas the ability of applicants on being engaged through a Contractor was tested only on the basis of driving a vehicle, for selection as a departmental driver the Recruitment Rules had to be strictly followed and selection was made on merit arrived at in the written test and the driving test. Applicants not being able to secure a position on merit, cannot be appointed by overlooking the

candidates in the merit list. It is also brought to notice that no record of contractual persons engaged is maintained by the respondents. However such a record of contractual persons engaged is maintained by the Contractor, who supplies them.

10. This is a case of recruitment of drivers as per provisions of the Recruitment Rules. Out of 21 persons recruited, 8 were contractual persons and 13 were outsiders. The contractual persons were selected in view of their position of merit in the select list and not by applying any other criteria of seniority or contractual engagement. The Recruitment Committee was headed by Senior Manager Mail Motor Service, who is a qualified Mechanical Engineer with specialization in Automobile Engineering. Hence, applicants cannot have a grievance that the Selection Committee was headed by a person, who was not properly qualified. The Applicants in the OA did not find a place in the select list as they had not qualified on merit or did not have a sufficiently high position in the merit list meriting their appointment.

11. The examination by which the contractual engagees and outside applicants were selected was one and the same and no discrimination was applied. The rules of the selection process were applied uniformly to all those who were shortlisted for the written examination and the driving test. The Applicants in the OA appeared to have been hit by persons who possessed higher educational qualifications or by persons who were higher in rank in the merit list. The Respondent having conducted selection process as per provisions of the notified Recruitment Rules, it would not be in order for the Tribunal to overlook the merit list and direct the engagement of contractual employees as this would be a traversity of justice. The Respondents have submitted the details of the selection process, the outcome of the written exam and driving test, the availability or lack of experience as required under the rules and we find no lacuna in the recruitment process.

12. Vacancies have been filled by selection as per provision of the recruitment rules and procedure laid down

thereon. Any appointment in violation of the merit list would not only be unjust but also be a nullity. We find no procedural illegality or irregularity, and the selection process was neither irrational or arbitrary, nor made in violation of the Recruitment Rules. Having taken part in the selection process and not being successful, the applicants cannot now challenge the same.

13. The selection process as such, has not been challenged by the applicants and the prayer is only for inclusion of their names in the select list or re-initiation of the selection process. Both the prayers are set aside on account of the fact that there is nothing irregular in the selection process which requires the setting aside of the same and re-initiating the selection process. Secondly, the non-inclusion of the name of the applicants is only on the ground that they are not qualifying on merit.

14. The OA, therefore, being devoid of merit stands dismissed. No order as to costs. In view of dismissal, interim order automatically stands vacated.

(Smt. P. Gopinath)
Member (A)

(A.J. Rohee)
Member (J)