

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION No.74 OF 2018

Dated this Thursday, the 25th day of January, 2018

**CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)**

1. Nikahat Rafik Shaikh,
Age : 20 years, Occ : Education,
Resident of : 92A, 1/1, Raviwar Peth,
Solapur 413 001.
2. Altaf Rafik Shaikh,
Age : 19 years, Occupation : Education,
Resident of : 92A, 1/1, Raviwar Peth,
Solapur 413 001. *.. Applicants*

(By Advocate Shri S.R.Pawar)

Versus

1. Union of India,
Through the Secretary,
Department of Posts,
Ministry of Communication and IT,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.
2. The Director of General,
India Post,
Room No.2443, Nariman Bhavan,
Maulana Azad Road, Dak Bhavan,
Delhi 110 001.
3. The Chief Post Master General,
India Post, 2nd Floor, G.P.O.
Old Building, Mumbai 400 001. *.. Respondents*

ORDER (ORAL)

PER : SHRI A.J. ROHEE, MEMBER (JUDICIAL)

Today when the matter is called
out for admission, heard Shri
S.R.Pawar, learned Advocate for the

applicants. We have carefully perused the case record.

2. The applicants in this OA have come up with the grievance that in the notification dated 07.04.2017 issued by the respondents to fill up 1789 posts of Gramin Dak Sewak in various Postal Divisions does not contain a stipulation that 4% of the posts are reserved for physically disabled persons or persons with disability as required under the provisions of the Persons with Disability (equal opportunities, Protection of Rights and Full Participation) Act, 1995 followed by the Office Memorandum No.36035/3/2004-Estt. (RES) dated 29.12.2005 issued by the Government of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension and consequent Office Memorandum No.36035/8/2003-Estt. (RES) dated 26.04.2006 issued by the respondent No.1.

3. Following reliefs are,

therefore, sought by the applicant in this OA :-

“8(a). That the Respondent No.3 may be directed to pass a Corrigendum in respect of the Office Notification dated 07th April, 2017 bearing No.ESTT/4-1/GDS ONLINE SELECTION/2017 Maharashtra Circle thereby modifying the same and further receiving mandatory 4 percent posts for the Persons with Disability as Official Memorandum dated 29/12/2005 and 26/04/2006 of the Government of India.

In the alternative thereof this Hon'ble Tribunal be pleased to quash and set aside the Office Notification dated 07th April, 2017 bearing No.ESTT/4-1/GDS ONLINE SELECTION/2017 Maharashtra Circle and direct the respondents to issue fresh Notification complying with the grievances of the Applicant.

(b) Pending the hearing and final disposal of the present OA, this Hon'ble Tribunal be pleased to stay the effect, execution, implementation and operation of the Office Notification dated 07th April, 2017 bearing No.ESTT/4-1/GDS ONLINE SELECTION/2017 Maharashtra Circle.

(c) Pass an interim relief of ex parte stay / stay in terms of prayer clause (B) above.

(c) Pass any other or further orders and / or direction, as this Court may deem fit and proper in the interest of justice.”

4. It is obvious from perusal of record that in the impugned notification dated 07.04.2017 (Annexure A-1) which pertains to Maharashtra Circle, in which vacancy position of

GDS for each District of Maharashtra is mentioned in the Annexures and in the last “*community wise consolidation of posts*” is stated as under :-

“*Community wise Consolidation of Posts*

<i>Community</i>	<i>No. of Posts</i>
<i>UR</i>	<i>1034</i>
<i>OBC</i>	<i>375</i>
<i>SC</i>	<i>124</i>
<i>ST</i>	<i>256</i>
<i>Total</i>	<i>1789”</i>

5. It is, thus, obvious that posts are not earmarked for persons with disabilities to the extent of 4% as stated in the Act, DOPTs OM and the circular issued by the Postal Department, although in advertisement under the caption 'N' “how to apply”, it is stated that for registering the candidature, the candidate should have the following essential data :-

- “(i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii) *PH - Type of Disability - (HH/OH/VH) - Percentage of disability.”*

6. It, therefore, appears that the

respondents in fact intended to earmarked requisite quota for persons with disability. However, the same was not shown.

7. The applicant has also produced on record, the subsequent notification bearing No. Estt./4-1/LWD/GDS/2017 Annexure A-4 issued by the respondents to fill up the vacant post of Gramin Dak Sewak under Maharashtra circle and start date of submitting online application is stated to be 01.12.2017 and the end date as 30.12.2017. In the said advertisement, however, which contains district wise vacancy position, in the last “*community wise consolidation of post*” is mentioned as under :-

“*Community wise Consolidation of Posts*

<i>Community</i>	<i>No. of Posts</i>
<i>OBC</i>	72
<i>PH-HH</i>	6
<i>PH-OH</i>	4
<i>PH-VH</i>	4
<i>SC</i>	26
<i>ST</i>	24
<i>UR</i>	148
<i>Total</i>	284”

8. As per the text of Advertisement produced for Chandrapur District, 284 posts were to be filled up in which reservation for persons with disability is clearly mentioned. It appears that since the reservation for persons with disability was not earmarked in the advertisement Annexure A-1 dated 07.04.2017, fresh advertisement was issued sometimes in November, 2017.

9. During the course of arguments, when specifically asked, the learned Advocate for the applicant on instructions received submitted that the applicants have not applied in pursuance of the notification dated 07.04.2017 (Annexure A-1). As such, it cannot be said that they are aggrieved persons or have any *locus standi* to approach this Tribunal especially when there is nothing on record to show that in pursuance of said notification dated 07.04.2017, recruitment is made to the post of GDS. It is not known if the

applicants have applied in pursuance of the subsequent advertisement issued sometimes in November, 2017.

10. In view of the above position on record, it can safely be said that there is no violation of any constitutional right of the applicant, especially when it is obvious that in subsequent Advertisement issued in November 2017, few posts are reserved for persons with disability.

11. For the above reasons, we do not find any substance in the present OA. It, therefore, stands dismissed in limine.

12. Registry is directed to forward certified copy of this order to both the parties at the earliest.

(R. Vijaykumar)
Member (Administrative)

(Arvind J. Rohee)
Member (Judicial)

*kmg**