

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00408/2016

Tuesday, this the 11th day of December, 2018

C O R A M

Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

Thankachan K.J., aged 49 years
S/o Joseph K.P.
Gramin Dak Sevak-Mail Deliverer
Manjoora P.O.,
Pozhuthana Via, Wayanad District
PIN-673 574
Residing at : Manjoor P.O.
Pozhuthana Via, Wayanad District
PIN 673 574.

Applicant

[Advocate: Mr.T.C.Govindaswamy]

versus

1. Union of India
represented by the Secretary
to Government of India
Ministry of Communications, Department of Posts
New Delhi-110 001.
2. The Chief Post Master General
Department of Posts
Kerala Circle
Thiruvananthapuram-695 033.
3. The Senior Superintendent of Post Offices
Calicut Division
Calicut-673 005.
4. The Superintendent, Postal Stores Depot
Calicut-673 002.

Respondents

[Advocate: Mr.M.K.Padmanabhan Nair, ACGSC]

This OA having been heard on 5th December, 2018, the Tribunal delivered the following order on 11th December, 2018:

ORDER

By Ashish Kalia, Judicial Member

The applicant was initially appointed on 17.11.1986 as GDS MD in the Majoor Branch Office under the respondents 3 and 4. As per the Recruitment Rules for promotion/appointment to the post of Multi Tasking Staff, the applicant is entitled to be considered based on his seniority and subject to the eligibility conditions, one of which is that the concerned GDS should be below 50 years of age. It is stated in the OA that there were vacancies for the post of MTS but the applicant who was shortly to attain the age of 50 years and would fall within the zone of consideration, was excluded from the list of candidates. He made a representation on 23.11.2015 which was rejected by the 3rd respondent by an order dated 7.12.2015. By way of information obtained under RTI Act, the applicant came to know there were two vacancies of MTS and that the number of vacant posts in the Postal Stores Department as on 31.3.2016 was six. Aggrieved by the action of the respondents in excluding his name, the applicant has approached this Tribunal seeking the following reliefs:

- (i) *Quash Annexure A3*
- (ii) *Declare that the inaction on the part of the 3rd/4th respondent to fill the existing vacancies of MTS under the respondents meant for GDS is illegal, , arbitrary, discriminatory and unconstitutional.*
- (iii) *Direct the 3rd /4th respondent to consider and appoint/promote the applicant against one of the existing vacancies of MTS forthwith with all consequential benefits arising therefrom.*

2. Notices were issued to the respondents to file reply. The respondents have filed reply and submitted that the applicant's date of birth is 6.1.1967. His position in the Divisional Seniority list of GDS of Calicut Division as on 1.1.2010 was 248. There were 5 vacancies of MTS in Calicut Division for the year 2015-16. One of these vacancies was filled up on 1.8.2015 by giving Rule

38 transfer to one official of Kannur Postal Division. Thus 4 vacancies were remaining to be filled up and according to the Department Posts (Multi Tasking Staff) Recruitment Rules 2015 dated 14.5.2015 the vacancies were to be filled up as follows:

- “(i) 25% by direct recruitment from amongst Gramin Dak Sevaks of the recruiting Division or Unit, on the basis of selection cum seniority.

Failing which by: direct recruitment from amongst Gramin Dak Sevaks of the neighbouring Divisions or Units on the basis of selection-cum-seniority. (Gramin Dak Sevaks are holders of civil posts but they are outside the regular civil service due to which their appointment will be by direct-recruitment).

- (ii) (a) 25% by direct recruitment on the basis of Competitive Examination restricted to the Gramin Dak Sevaks of the Division or Unit failing which by;

(b) direct recruitment from amongst Gramin Dak Sevaks of the recruiting Division or Unit, on the basis of selection -cum seniority.

- (iii) (a) 25% by appointment of Casual Labourers conferred with temporary status on the basis of selection -cum seniority failing which by :

(b) appointment of Casual Labourers engaged on or before 18' September 1993, working for eight full hours in a day, on the basis of selection cum seniority, failing which by:

(c) appointment of Casual Labourers conferred with temporary status in the neighbouring Division or Unit on the basis of selection-cum seniority, failing which by:

(d) appointment of Casual Labourers engaged on or before 18' September 1993, working for eight full hours in a day, of the neighbouring Division or Unit on the basis of selection cum seniority, failing which by:

(e) appointment of Part-time Casual Labourers engaged on or before 15' September 1993, of the recruiting Division or unit on the basis of selection-cum-seniority, failing which by:

(If there are more than one neighbouring Division or Unit the senior most Casual labourer of that status amongst them shall be appointed)

(f) by direct recruitment from amongst Gramin Dak Sevaks on the basis of their seniority in the Division or Unit.

- (iv) 25% by direct recruitment on the basis of competitive examination restricted to Service only as Sepoy/Packer subject to the following conditions:

- (a) *Age 18-30 years (relaxable for different categories as notified by the Government of India from time to time.)*
- (b) *Found medically fit as per the fitness criteria fixed by the Department of Posts/Army Postal Service from time to time.*
- (c) *Willing to serve in Army Postal Service till his services are required in the Army Postal Service.*

(If there are more than one neighbouring Division or Unit the senior most Casual Labourer of that status amongst them shall be appointed.)

Age: 50 years as on 1st April of the year of the vacancy(ies) (Relaxab/e for those belonging to Scheduled Castes and Scheduled Tribes upto five years and for those belonging to Other Back ward Classes upto three years in accordance with the instructions issued by Government of India. In this case, the prescribed age limit was 50 years as on 01-04-2015.

Accordingly the vacancies were required to be filled up earmarking one vacancy under each category (all UR) and approval therefore was received from Chief Post Master General Trivandrum. Approval for the 25% GDS Seniority quota was received in CPMG Trivandrum letter No: Rectt/13-2/2015 dated 31/08/2015/01-09-2015 and the examination quota (25% Limited Departmental Competitive Examination (LDCE) restricted To GDS and (25% LDCE restricted To GDS for joining APS) was approved in CPMG Trivandrum letter No: Rectt/13-2/2015 dated 19.08.2015. There were no eligible casual labourer for selection under the 25% casual labourer Quota and hence this vacancy was also transferred to GDS Seniority quota. The departmental Screening committee for selection of GDS against the seniority quota (1+1=2 vacancies) was held on 08.10.2015 and the following GDS were selected against these 2 vacancies.

Shri. Raju Jacob, GDSMD, Manasseri unreserved(UR) Date of Birth 25.5.1966: Date of engagement in service: 25.5.1984.

Shri. Sureshkumar P, GDSMC, Puthiyangadi UR DOB 15.01.1966, DOES 01-11-1984.

The examination for the vacancies, one each for the 25% LDCE quota restricted to GDS and 25% LDCE quota restricted to GDS for Joining Army Postal Service was held on 25.10.2015 and based on the Departmental Screening Committee meeting held on the Departmental Screening Committee meeting held on 11.11.2015 the following 2 GDS were selected against the two vacancies as follows:

1) 25% LDCE quota restricted to GDS one vacancy to Shri. Unnikrishnan K. GDS BPM, Vavad-UR Roll No:30209.

2) 25% LDCE quota restricted to GDS for joining Army Postal Service-one vacancy to Shri.Suvin Kumar K. GDS MD Chembra UR-RollNo.30198.”

3. It is further submitted that the contention that the applicant comes under the zone of consideration for selection as MTS is not true. The last UR GDS selected against seniority quota vacancies for the year 2014 was Sri Sivanandan K.P. At S.No.121 in the seniority list of GDS of Calicut Division as on 1.1.2010. The applicant's position is at Sl.No.248 of the said seniority list. Since there were only 2 vacancies under GDS seniority quota, two senior most eligible GDS in the list had to be selected as MTS. Sri Raju Jacob, GDSMD, Manasserri and Sri Suresh Kumar P, GDSMC, Puthiyangadi were the two senior most eligible GDS and hence they were selected against those vacancies. The applicant who was the 13th UR candidate could not be considered for recruitment to the cadre of MTS for the year 2015 on selection cum seniority basis as there were only two vacancies. The applicant sought information under RTI Act which was replied by the 4th respondent as per Annexure A7 that the total vacancy of MTS upto 31.3.2016 was 6. Further as a reply to another RTI query it was informed that the vacancy towards direction promotion from GDS is five and that was subject to revision of establishment (Annexure A9). The respondents have prayed for dismissal of the OA.

4. Heard learned counsel for the parties on both sides at length and perused the records. The applicant has raised a question whether he could be considered for appointment as MTS against the vacancy of 2015 when there were 5/6 vacancies under UR category. As per the Department's reply, there were only 2 vacancies under the 25% quota in which the applicant is claiming to be given

promotion as MTS. Unfortunately, the applicant's name was at Sl.13 and was not even in the zone of consideration as per the statement by the respondents. Thus the present OA is devoid of merits and is liable to be dismissed. Accordingly we dismiss the OA. No order as to cost.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures produced by the applicant:

- Annexure A1: Copy of the Department of Posts (Multi Tasking Staff) Recruitment Rules, 2015.
- Annexure A2: Copy of the representation dated 23.11.2015 addressed to the 3rd respondent.
- Annexure A3: Copy of the letter No.B3/155/GDS dated 7.12.2015 issued by the 3rd respondent.
- Annexure A4: Copy of the letter dated 1.4.2016 addressed to the 3rd respondent.
- Annexure A5: Copy of letter dated 1.4.2016 addressed to the 4th respondent.
- Annexure A6: Copy of letter bearing No.CR/RTIA/Dlg/2/2016 dated 26.4.2016 issued from the office of the 3rd respondent.
- Annexure A7: Copy of communication from the office of the 4th respondent under No.B/RTI-Dlg/13 dated 11.4.2016.
- Annexure A8: Copy of letter bearing No.CR/RTIA/Dlg/7/2016 dated 26.4.2016 issued by the 3rd respondent.
- Annexure A9: Copy of letter bearing No.B/RTI-Dlg/13 dated 28.4.2016 issued from the office of the 4th respondent.

Annexures produced by the respondents:

- Annexure R1: Copy of the letter No.Rectt/13-2/Misc/12 dated 14.7.2015.
- Annexure R2: Copy of the Seniority List of GDS of Calicut Division containing Sl.122 to 248.
- Annexure R3: Copy of letter No.Rectt/13-2/2015 dated 31.8.2015/01.09.2015.
- Annexure R4: Copy of letter No.Rectt/13-2/2015 dated 19.8.2015.