

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

...

**Original Application No. 290/00474/2015**

RESERVED ON : 08.05.2019

PRONOUNCED ON : 22.05.2019

**CORAM:**

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)**

**HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

Ladu Singh Udawat s/o Shri Kalu Singh Udawat, aged about 46 years, resident of Plot No.153, Shriramnagar, behind RTO Office, Bhadwasiya, Jodhpur-342006.

...Applicant

(By Advocate: Shri J.K.Mishra)

Versus

1. Kendriya Vidyalaya Sangathan (HQ) through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110 016.
2. Additional Commissioner (Admn), Kendriya Vidyalaya Sangathan (HQ), 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110 016.
3. Jt. Commissioner (Admn), Kendriya Vidyalaya Sangathan (HQ) 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110 016.

...Respondents

(By Advocate: Shri Avinash Acharya)

**ORDER**

**Per Mrs. Hina P.Shah**

The applicant has filed the present OA praying for the following reliefs:-

- (i) That impugned order dt. 9.9.2015 (Annexure A-1), to the extent not including the name of the applicant and letter dated 24.11.2015 (Annexure A/2), declaring the applicant

as ineligible for the post of Assistant, may be declared illegal and the same may be quashed. The respondents may be directed to treat the applicant as fully eligible for the post in question and include his name in the impugned main panel, and give him offer of appointment and allow him all consequential benefits.

- (ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the costs of this application may be awarded.

2. The case of the applicant, as stated by him, is that he has passed BA Examination 1996 from MDS University, Ajmer and MA Examination 1999 from JNVU, Jodhpur. He served as Combatant Clerk in India Air Force during the period from 14.2.1989 to 28.2.2015. The applicant further states that he was enrolled as AC (Clk GD) on 14.2.1989 and promoted to the post of Corporal (Clk GD) from 14.2.1994 in the pay scale of Rs. 3900-4950 (revised to Rs. 5200-20200) with GP of Rs. 2400 under 6<sup>th</sup> CPC) and remained for about 8 years on the same. The post of UDC is in the pay scale of Rs. 5200-20200 with GP of Rs. 2400. The applicant had 8 years experience on the equivalent post in the grade pay of Rs. 2400. He was further promoted as Sgt (Clk GD) on 1.12.2002 in the pay scale of Rs. 4320-5595/revised to Rs. 5220-20200 with GP of Rs. 2800, under 6<sup>th</sup> CPC. The applicant was granted benefit of MACP in the Grade Pay of Rs. 4200 in the pay band of Rs. 9300-34800. He was discharged from service on fulfilment of terms of his

engagement on 28.2.2015 from the post of SGT (MACP) (sic ACP).

On the basis of advertisement issued by the respondents, the applicant had applied for the post of Assistant wherein there were 81 vacancies. The essential condition for the post of Assistant was Graduate with three years experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertakings. It is the claim of the applicant that he was fulfilling all the requisite conditions applied for the same. He was issued admit card for appearing in the written test and thereafter he appeared and passed the written test and obtained 87 marks. Thereafter he was allowed to appear in the proficiency test. The result of the proficiency test was not declared and, therefore, as the applicant could not find his name in the list of candidates in the impugned letter dated 9.9.2015, then he made RTI application. The applicant has been supplied information under RTI vide letter dated 24.11.2015 stating that he has obtained 87 marks in written test and has also qualified the computer proficiency test, but he has been said to be not eligible as he was not working as UDC in his department. The applicant states that as per requirement, a candidate should have three years

experience on the post of UDC and it is not necessary that he should be working on the post of UDC or equivalent post. The applicant has got experience of about 8 years working as UDC i.e. equivalent of UDC in Grade Pay of Rs. 2400. Therefore, it is wrong on the part of the respondents to state that he is not eligible for appointment as Assistant. The persons placed on the main panel are being issued offer of appointment to the post of Assistant and three persons having same merit find place at Sl.No. 38, 39 and 40 of the impugned order. Some similarly situated persons working on equivalent posts in the feeder grade in postal department have filed OA No.373/2015 and one post each for them has been kept vacant vide order dated 14.9.2015. The applicant claims that his case is identical to that of Govind Mewara (Ann.A/13) wherein this Tribunal has directed the respondents to keep the post of Assistant vacant in pursuance of the advertisement No.8 dated 25<sup>th</sup> August, 2014. Therefore, the applicant has approached this Tribunal alleging inaction on the part of the respondents and praying that he should be given offer of appointment to the post of Assistant with all consequential benefits.

3. The respondents have filed reply wherein they have stated that as per the advertisement the candidates were

asked to appear in the written test and on the basis of marks scored in written examination, candidates were shortlisted for appearing in the skill test and were asked to submit documents in support of the information submitted by them in online applications alongwith the NOC/Service/Vigilance Certificate from their employer for verification of their eligibility for the post applied. After scrutinising the documents, it was observed that many applicants have filled their online application form mentioning that they are working as UDC in the pay band of Rs. 5200-20400 with grade pay of Rs. 2400 or 2800 and other pay scales, whereas as per the record received from their department/organization they were found working as Postal/Sorting/Office Assistant of Indian Air Force, Head Constable (M)/ASI(M) of Para Military Forces i.e. CRPF, BSF, ITBP, CISF, SSB etc., Hawaldar Clerk in Army, Sergeant (AFS), PO (Writer) Indian Navy, Social Security Assistant of EFPO having pay band of Rs. 5200-20400 with grade pay of Rs. 2400/2800 and Assistant/SWO of Nationalized Bank and Assistant Grade-III of FCI having different pay scales. The respondents further state that the Recruitment Rules of Kendriya Vidyalaya Sangathan (KVS) clearly stipulate that persons seeking appointment as Assistant in KVS ought to

be an UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertaking having a graduate degree. In the said advertisement it is clearly brought out the requirement of the candidate being UDC. There cannot be any deviation from this rule and if a person is not UDC then, KVS is not required to consider him/her for selection. Therefore, merely because someone satisfied the particular pay band with particular grade, that by itself would not entitle him/her to get selected. Hence, those who were not working as UDCs in their organization cannot be considered for selection. Therefore, the action of the respondents is perfectly legal, valid and in consonance with law. It is their claim that the applicant in the online application has filled wrong information by selecting the post held as 'UDC' whereas he was holding the post of Sergeant Clerk in the Indian Air Force. The applicant was not found eligible for the post of Assistant as per the advertisement. In the advertisement under the heading 'important instructions to the candidates' it has been mentioned that "the candidates applying for the examination should ensure that they fulfil all eligibility conditions for admission to the examination. Their admission at all the stages of the examination will be purely provisional subject to satisfying the prescribed

eligibility condition (s)". The respondents have further submitted that due to past experience in filling the post of Assistant, the special instructions in advertisement No.8 was issued to avoid non-eligible candidates applying for the post of Assistant in the light of Office Memorandum dated 27.8.2009 whereby amendment in the KVS (Appointment, Promotion, Seniority etc.) Rules, 1971 was made by the Board of Governors in its meeting held on 26.7.2008 effective from 1.8.2008 wherein it was clearly mentioned that the minimum qualification and other qualification required for direct recruitment is Graduate with 3 years experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertaking. The candidate must have possessed the experience of 3 years regular service as UDC whereas a candidate working as Sergeant Clerk in Indian Air Force and holding the post other than UDC was declared ineligible for the post of Assistant as per the eligibility criteria and other conditions published in the advertisement No.8. According to the respondents, the duties of the Sergeant Clerk in Indian Air Force are different to that of UDC in the respondent department. The recruitment for the post of Assistant for the year 2012-13 and 2013-14 was done strictly in accordance with

Recruitment Rules of KVS and the eligibility conditions laid down in advertisement No.8. Therefore, the applicant is not entitled to any relief and the OA deserves to be dismissed.

4. The applicant has filed rejoinder to the reply reiterating the submissions made in the OA. The applicant has stated that he has passed prescribed training for the post of Office Assistant vide certificate 31.7.2015 (Ann.A/14). The post of Sgt Clerk GD held by him before his retirement was equated with Senior Clerk which is also known as UDC in Central Government. This fact is evident from a recent communication dated 12.4.2016 (Ann.A/15). He also lay hand on the Directory of Equation IAF Trades with Civil Trades and Guide to Registration of Ex-Airmen Applicants for employment promulgated vide letter dated 5.10.2012 (Ann.A/16). There is no designated post of LDC in Armed Forces in respect of Ex-Service men and as per the interpretation of the respondents, the reserved post of UDC for ex-service men shall never be filled in and thus remain vacant. The applicant has also stated that the persons having experience of the post of Postal Assistant, Assistant grade in SBI, SI (M) in CISF, ASI(M) in CISF have been given appointment as per the information obtained under RTI vide letter dated 12.10.2015 (Ann.A/17), despite

the fact that they were not having experience on the designated post of UDC.

5. Heard Shri J.K.Mishra, counsel for the applicant and Shri Avinash Acharya, counsel for the respondents and perused the material available on record.

6. It is noticed that in a similar controversy one Shri Akul Kumar had approached before the Ahmedabad Bench of this Tribunal by filing OA No.350/2015 against his non-selection to the post of Assistant pursuant to advertisement No.8 dated 25.08.2014. After considering the matter in detail and applying the principles laid down by the Hon'ble Supreme Court in the case of Bendanga Talikdar vs. Saifudaullah Khan & Ors. (2011) 2 SCC (L&S) 635 and in the case of District Collector & Chairman, Vizianagaram Social Welfare Residential School Society Vizianagaram & Anr. v. M.Tripura Undari Devi, (1990) 3 SCC 655, the Ahmedabad Bench of this Tribunal in para 14 & 15 observed as under:-

"14. While applying the above principles to the facts and circumstances of the case on hand, we find it difficult to accept the argument of Shri S.C.John. He may be correct in his arguments that the post of PACO and UDC are equivalent, but in the advertisement No.8 dated 25.08.2014 vide Annexure A/3 the essential qualification prescribed is Graduate with 03 years experience as UDC in Central/ State Govt./ Autonomous Bodies/ Public Sector Undertakings. The argument of Shri S.C.John can be accepted provided it is mentioned as Graduate with 03 years

experience as UDC or any equivalent post. But, it is not prescribed so. Therefore, in view of the absence of specific words or any equivalent post in the said advertisement, the aggrieved persons are all those persons who were working in equivalent posts to that of UDC with different nomenclature in different Department of State/Central Govt./ Autonomous Bodies/ Public Sector Undertakings. In view of the clear, unambiguous and specific words mentioned in the Advertisement No.8 i.e. 03 years experience as UDC many may not have applied to the post in question on the bonafide belief that they did not possess the experience as mentioned in the advertisement. In *M. Tripura Sundari Devi (supra)* the Hon'ble Supreme Court categorically held that any selection and appointment made in disregard to the qualification mentioned in an advertisement amounts to fraud on public. In *Saifudaullah Khan (supra)* the Hon'ble Supreme Court held that the qualification mentioned in the advertisement cannot be relaxed. It is declared therein that relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained under Articles 14 and 16 of the Constitution of India. Bearing this in mind, we have perused the advertisement No.8 dated 25.08.2014 vide Annexure A/3. We do not find that any power of relaxation is provided therein. As such if we were to grant the prayer as sought by the applicant in this O.A., the same would result in disregarding the principles/judgment of the Hon'ble Supreme Court both in *Saifudaullah Khan (supra)* and *M. Tripura Sundari Devi (supra)*.

15. For the foregoing, we decline to interfere with the impugned select list and consequently, the question of issuing any direction as sought by the applicant does not arise. The O.A. deserves to be dismissed. Accordingly, the same is dismissed. There shall be no order as to costs."

7. The Larger Bench of the Tribunal in OA No.380/2015, subject matter of which was also pertaining to non-selection of the applicants who were Postal Assistants to the post of post of Assistant in the KVS, has noted the submission of the applicants that in response to an RTI query, the Department of Posts vide letter dated 06.10.2015 have clarified that the Postal Assistant/Sorting Assistant and Postal Assistant (Technical), who are in the pay band of Rs.

5200-20200 with grade pay of Rs. 2400 are equivalent to the post of UDC in the Government as they all are in the same pay band with same grade pay and that the Ahmedabad Bench of this Tribunal has not considered the said aspect of the matter, therefore, the judgment rendered in Akulkumar's case cannot be relied upon by the respondents in order to defeat the cause of the applicant. While keeping in view the clarification issued by the Department of Posts vide letter dated 06.10.2015 and noticing the fact that the same was not considered by the Ahmedabad Bench of this Tribunal while rendering the judgment in Akulkumar's case, a reference was made to Larger Bench. The Larger Bench heard the matter on 6.12.2018 and vide its judgment dated 5<sup>th</sup> April, 2019, in para 10 to 24 observed as under:-

"10. The vexed question of equivalence of status of two different posts on the basis of equivalent pay scales and the nature of respective duties on those posts, has confronted the Courts for a long time. No person has a right of appointment but has a right only to be considered against the vacancies if he fulfills the eligibility criteria prescribed under the recruitment rules. Laying down eligibility for a post, falls within the exclusive domain of the legislature / rule making authority and cannot be a subject matter of judicial review unless found to be arbitrary, unreasonable or has been fixed / prescribed without keeping in mind the nature of services for which the appointments are to be made or it has no rational relation to the object sought to be achieved by the Statute. It is always permissible for the Government / rule making authority to prescribe appropriate qualifications / eligibility in the matter of appointments / promotions to different posts. Even if a person joins the

service, he merely acquires a status and the rights / obligations thereto are not to be determined by the consent of the parties but by the Statute or statutory rules, which may be framed and altered unilaterally by the Government / rule making authority. Reference in this regard may be made to a judgment of the Hon'ble Supreme Court in the matter of **State of Jammu & Kashmir vs. Shiv Ram Sharma & Ors.**, AIR 1999 SC 2012. Paragraph 6 of the said judgment reads thus: -

"6. The law is well settled that it is permissible for the Government to prescribe appropriate qualifications in the matter of appointment or promotion to different posts. The case put forth on behalf of the respondents is that when they joined the service the requirement of passing the matriculation was not needed and while they are in service such prescription has been made to their detriment. But it is clear that there is no indefeasible right in the respondents to claim for promotion to a higher grade to which qualification could be prescribed and there is no guarantee that those rules framed by the Government in that behalf would always be favourable to them. In *Roshan Lal Tandon v. Union of India*, (1968) 1 SCR 185 : (AIR 1967 SC 1889), it was held by this Court that once appointed an employee has no vested right in regard to the terms of service but acquires a status and, therefore, the rights and obligations thereto are no longer determined by consent of parties, but by statute or statutory rules which may be framed and altered unilaterally by the Government. ...."

11. The eligibility criteria should not be arbitrary or unreasonable and if it is found so, it becomes liable to be quashed as it falls within the mischief of Article 14 of the Constitution of India, which provides for equality before law and equal protection of law. The scope of Articles 14 and 16 of the Constitution has been widened by judicial interpretation to mean not only the right to be not discriminated but also protection of any arbitrary or irrational act of the State. Arbitrariness is an anathema to rule of equality.

12. The question does arise as to whether it is within the domain of this Tribunal to determine the equivalence of status of two different posts in different cadres on the basis of equal pay scale and the respective nature of duties on those posts. Admittedly, the post of a Postal Assistant in the Department of Posts and the post of an Upper Division Clerk in the Government are in the same pay band with same grade pay and on the basis of said equality, Shri Singh, learned counsel for the applicants argued that the status of

two posts is equal and, therefore, the applicants should be treated eligible for the post of Assistant in K.V.S. We are not inclined to accept the said argument of learned counsel for the applicants as the same would lead to departure from the Statutory rules wherein the essential qualification for the post of Assistant has been laid down as graduate with 03 years' experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertakings. Though the applicants are in the same pay band with same grade pay and having the same status of Upper Division Clerk in terms of the same pay band and same grade pay but that does not mean that the experience acquired by the applicants as Postal Assistant is also equivalent to the experience earned on a post of Upper Division Clerk.

13. Equally untenable is the argument of learned counsel for the applicants, while relying upon Annexure A/13 letter dated 17<sup>th</sup> November, 2015, when he submitted that the nature of duties of Postal Assistant are similar to that of Upper Division Clerk in the Government.

14. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon assertions made by the parties in their respective pleadings. The equivalence of posts or equivalence of pay or the nature of duties or the similarity of nature of duties must be left to the Executive Government / rule making authority. It must be determined by the expert bodies only. They would be the best judge to evaluate the nature of duties and to equate the status of two posts. If there is any such determination by an expert Body or Commission or a Committee, the Court should normally accept it. Reference may be made in this regard to **State of U.P. and Others vs. J.P. Chaurasia and others**, 1989 SCC (L&S) 71 : (1989) 1 SCC 121.

15. Here in the case in hand, the recruitment rules have prescribed the essential qualification for the post of Assistant as graduate with 03 years' experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertakings. While issuing the advertisement, apart from depicting these qualifications, it has further been clarified and insisted upon by the respondents in the said advertisement under the heading of important instructions to the candidates that 'UDC in the pay band of Rs. 5200-20200 with grade pay of Rs. 2400 having 3 years regular service in Central/State Govt./Autonomous Body of Central/State Govt. and Public Sector Undertaking are eligible for the post of Assistant in KVS'. Looking towards those unequivocal terms laid down in the advertisement in consonance with the recruitment rules, nobody can be permitted to take departure and to lay a claim on the post of Assistant merely

on the basis that he is in the same pay band with same grade pay as is being granted to Upper Division Clerk in the Government. The experience earned on a different post i.e. Postal Assistant cannot, in any manner, be declared to be equivalent by this Tribunal to the post of Upper Division Clerk in the Government. It is an exercise which can only be undertaken by an expert body or by the rule making authority after taking into consideration various factors.

16. The argument of learned counsel for the applicants that since the applicants are in the same pay band with same grade pay and, therefore, they should be considered equivalent to the post of Upper Division Clerk in the Government and their status should also be considered equivalent to the post of Upper Division Clerk in the Government ignoring the factum of experience earned by them on different posts, can hardly be accepted because it is nothing else but to accept that all Dogs and Cats are mammals, therefore, all Cats are Dogs (see Constitutional Law of India by H.M. Seervai, 4<sup>th</sup> Edition (1), page 439 paragraph 9.9).

17. The argument of learned counsel for the applicants that in view of the information supplied by Department of Posts under Right to Information Act, 2005 vide letter dated 06<sup>th</sup> October, 2015 (Annexure A/12), the status of two posts has been declared equivalent in terms of the pay band of Rs. 5200-20200 with grade pay of Rs. 2400 and, therefore, the action of the respondents while rejecting the applicants' candidature is illegal, being highly misplaced, does not find favour with us. A perusal of letter dated 06<sup>th</sup> October, 2015 (Annexure A/12) reveals that the Department of Posts, while issuing said letter, simply mentioned that posts of Postal Assistant/Sorting Assistant and Technical Postal Assistant in the Department of Posts are in pay band of Rs. 5200-20200 with grade pay of Rs. 2400. The said letter nowhere discloses this fact that the post of Postal Assistant was ever equated with the post of Upper Division Clerk in the Government.

18. We are also not inclined to accept the argument of learned counsel for the applicants when he alleges discrimination by referring one Nema Ram's case, who was given offer of appointment by the respondents on the post of Assistant as the Tribunal cannot be a party to perpetuate a practice adopted by the respondents contrary to the recruitment rules.

19. In our considered view, the appointing authority cannot deviate from the provisions of recruitment rules and is bound to strictly adhere with the requisite qualifications and experience for the post while making recruitment.

20. It has been categorically held by the Hon'ble Supreme Court in **M. Tripura Sundari Devi's** case (supra) that

appointment made in disregard to the terms set up in the advertisement cannot be permitted since it is a matter not confined only between the appointing authority and appointee concerned, therefore, it amounts to a fraud on public. The observations made by the Hon'ble Supreme Court in the said judgment reads, thus:-

"6. ....when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. ...."

21. In **Saifudaullah Khan's** case (supra), the Hon'ble Supreme Court has held that the selection process has to be conducted strictly in accordance with the stipulated selection procedure and when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained and there cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. The operative portion of the said judgment as contained in paras 29 and 30 reads, thus: -

"29. .... In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity.

This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.

30. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of Respondent 1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.”

22. Rightly, while relying upon the principles laid down by the Hon’ble Supreme Court in the aforesaid two judgments, the Ahmedabad Bench of this Tribunal has declined to interfere with the select list impugned in the **Akulkumar’s** case (supra).

23. In the case in hand, we find that in the advertisement No. 08 (Annexure R/1), the essential qualifications for the post of Assistant have been unequivocally laid down as graduate with 03 years’ experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertakings and we find that those qualifications are in consonance with the recruitment rules. We do not find any power with the appointing authority to relax the said recruitment rules and nothing can be read beyond, which is not enshrined in the rules.

24. In view of the above, it is held that this Tribunal cannot declare the post of Postal Assistant as equivalent to Upper Division Clerk (UDC) for considering the candidature to the post of Assistant in KVS. “

8. Therefore, taking into account the order passed by the Ahmedabad Bench of this Tribunal in OA No.350/2015 and thereafter the answer to the reference made to the Full Bench in OA No.380/2015, we are of the view that the controversy in hand has already been settled by this

Tribunal wherein it was observed that in the advertisement No. 08, the essential qualifications for the post of Assistant have been unequivocally laid down as graduate with 03 years' experience as UDC in Central/State Govt./Autonomous Bodies/Public Sector Undertakings and that those qualifications are in consonance with the recruitment rules. The Full Bench has also considered the letter dated 6.10.2015 of the Department of Posts which clarified that the Postal/Assistant/Sorting Assistant and Postal Assistant (Technical), who are in the pay band of Rs. 5200-20200 with Grade Pay of Rs. 2400 are equivalent to the post of UDC in the Government, which was the basis of reference before the Full Bench and the Full Bench has already considered the matter, therefore, the certificates/documents referred to by the applicant in his rejoinder with regard to equivalence has no relevance.

So far as the allegation of the applicant that the respondents have considered and given appointment to the post of Assistant to the persons having experience of Postal Assistant, Assistant Grade in SBI, SI (M) in CISF, ASI (M) in CISF, the respondents have clarified that in the advertisement No.8, 'important instructions' to the candidates has been inserted to facilitate the candidates

who are eligible to apply online on fulfilling the conditions as per Recruitment Rules/advertisement and these instructions were not inserted in earlier advertisement No.4. Due to past experience special instructions were issued in the advertisement No.8 so as to make the selection transparent in accordance with the Recruitment Rules. The persons referred to by the applicant belong to earlier selection and if the respondents have inserted the clause in the subsequent recruitment process, which is as per the Recruitment Rules, this cannot be the basis for the applicant to challenge the selection. The appointing authority cannot deviate from the provisions of the rules and is bound to strictly adhere with the requisite qualification and experience for the post while making recruitment.

9. In view of above discussions, we do not find any reason to interfere in the matter. Accordingly, the OA is dismissed with no order as to costs.

**(ARCHANA NIGAM)**  
**ADMV. MEMBER**

**(HINA P.SHAH)**  
**JUDL. MEMBER**

R/

