

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

Date of decision: 21.02.2019

1. O.A. NO.63/93/2016
2. O.A. NO.63/97/2016
M.A. NO.63/119/2018
3. O.A. NO.60/472/2017
M.A. NO.60/664/2017
4. O.A. NO.60/864/2017
M.A. NO.60/1162/2018
5. O.A. NO.60/865/2017
M.A. NO.60/1142/2018
6. O.A. NO.60/44/2018
7. O.A. NO.60/45/2018
8. O.A. NO.60/46/2018
9. O.A. NO.60/47/2018
10. O.A. NO.60/115/2018
11. O.A. NO.60/116/2018
12. O.A. NO.60/117/2018
13. O.A. NO.60/118/2018
14. O.A. NO.60/119/2018
15. O.A. NO.60/128/2018
16. O.A. NO.60/130/2018
17. O.A. NO.60/285/2018
18. O.A. NO.60/287/2018
19. O.A. NO.60/297/2018
20. O.A. NO.60/986/2018
M.A. NO.60/1261/2018
M.A. NO.60/1742/2018
21. O.A. NO.60/987/2018
M.A. NO.60/1262/2018
M.A. NO.60/1740/2018
22. O.A. NO.60/1209/2018
M.A. NO.60/1888/2018
23. O.A. NO.60/1210/2018
M.A. NO.60/1883/2018
24. O.A. NO.60/1211/2018
M.A. NO.60/1881/2018
25. O.A. NO.60/1212/2018
M.A. NO.60/1889/2018
26. O.A. NO.60/1213/2018
M.A. NO.60/1572/2018
M.A. NO.60/1884/2018
M.A. NO.60/1886/2018
27. O.A. NO.60/1214/2018
M.A. NO.60/1885/2018
M.A. NO.60/1887/2018
M.A. NO.60/1573/2018



28. O.A. NO.60/1335/2018
M.A. NO.60/1715/2018
M.A. NO.60/1716/2018
M.A. NO.60/1782/2018

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).
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1. O.A. NO.63/93/2016

Sh. Ishwar Dass S/o Sh. Gulaba Dass, aged 64 years, R/o VPO Pathiar, Tika Matehar, via Nagrota Baguan, District Kangra (H.P.). Group C.

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, H.P. Circle, Shimla.
3. Superintendent of Post Offices, Dharamshala Division, Dharamshala-176215 (H.P.).

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
 Sh. B.B. Sharma, counsel for the respondents.

2. O.A. NO.63/97/2016
M.A. NO.63/119/2018

Karam Singh S/o Sh. Hari Chand, aged 61 years, R/o Village & Post office Khudla via Baldwara, District Mandi-175033 (HP).

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, HP Circle, Shimla.
3. Senior Superintendent of Post Offices, Hamirpur Division, Hamirpur (H.P.).

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
 Sh. B.B. Sharma, counsel for the respondents.

**3. O.A. NO.60/472/2017
M.A. NO.60/664/2017**

Janak Raj Sangar S/o Late Sh. Ram Sarup, Aged 58 years, working as Postal Assistant (Group 'C'), at Manimajra S.O. Resident of House No. 229, Sector 30-A, Chandigarh.

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Punjab Circle, Sector-17, Chandigarh.
3. Superintendent of Post Offices, Sector-17, Chandigarh.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

**4. O.A. NO.60/864/2017
M.A. NO.60/1162/2018**

Gulshan Kumar age 60 years, son of Sh. Tilak Raj Village and Post Office, Kharwan Tehsil Jagadhari, District Yamuna Nagar. Group C.

... APPLICANT

VERSUS

- Union of India through
1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
 2. Chief Post Master General, Haryana Circle, Ambala.
 3. The Senior Superintendent of Post Offices, Ambala Division, Ambala.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

**5. O.A. NO.60/865/2017
M.A. NO.60/1142/2018**

Anil Kumar, age 51 years, resident of Plot No.44, Vishnu Garden, District Yamuna Nagar. Group C.

... APPLICANT

VERSUS

Union of India through

1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Haryana Circle, Ambala.
3. The Senior Superintendent of Post Offices, Ambala Division, Ambala.

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

6. O.A. NO.60/44/2018

Inder Pal Singh, age 62 years, resident of Village and Post Office House No.53, Sector No.10, Near DRM Office, Ambala Cantt.

... APPLICANT

VERSUS

Union of India through

1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Haryana Circle, Ambala.
3. The Senior Superintendent of Post Offices, Ambala Division, Ambala.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

7. O.A. NO.60/45/2018

Madan Mohan Sharma, age 59 years, resident of House No.4, Post Office Colony near Shastri Colony, Yamuna Nagar-135001. Group C.

... APPLICANT

VERSUS

1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.

2. Chief Post Master General, Haryana Circle, Ambala.
3. The Senior Superintendent of Post Offices, Ambala Division, Ambala Cantt.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

8. O.A. NO.60/46/2018

Hemant Kumar Sharma age 60 years , R/o V& PO Boh, District Ambala-133001. Group C.

... APPLICANT

VERSUS

1. The Superintendent of Post Offices, Ambala Division, Ambala.
2. Chief Post Master General, Haryana Circle, Ambala Cantt.
3. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

9. O.A. NO.60/47/2018

Pardeep Kumar Gupta, son of Sh. Jhandu Dass Gupta, age 57 years, Postal Assistant Group 'C' resident of House No.D-65, Dayal Bagh, Mahesh Nagar, Ambala Cantt.

... APPLICANT

VERSUS

- Union of India through
1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
 2. Chief Post Master General, Haryana Circle, Ambala.
 3. The Senior Superintendent of Post Offices, Ambala Division, Ambala Cantt.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

10. O.A. NO.60/115/2018

Sh. Sunder Lal S/o Sh. Fakir Chand, aged 63 years, R/o VPO Sangwari,
Distt. Rewari-123401.

... APPLICANT

VERSUS

- 1. Union of India through Secretary, Ministry of Information Technology,
Department of Posts, Dak Bhawan, New Delhi.
- 2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

11. O.A. NO.60/116/2018

Sh. Ram Singh-II S/o Ram Ji Lal, age 63 years, resident of House
No.554/16, Uttam Nagar, Badwali Dhani, Hissar-125001. Group C.

... APPLICANT

VERSUS

- 1. Union of India through Secretary, Ministry of Information Technology,
Department of Posts, Dak Bhawan, New Delhi.
- 2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

12. O.A. NO.60/117/2018

Sh. Lakhmi Chand-II S/o Sh. Kirori Mal, aged 63 years, resident of House
No.3208, Mohalla Banjarwada, P.O. & District Rewari.

... APPLICANT

VERSUS

- 1. Union of India through Secretary, Ministry of Information Technology,
Department of Posts, Dak Bhawan, New Delhi.
- 2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

13. O.A. NO.60/118/2018

Sh. Tara Chand-VII S/o Sh. Chandgi Ram, age 61 years, resident of House No.445, Mohalla Rampura, Hissar-125001. Group C.

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

14. O.A. NO.60/119/2018

Sh. Om Parkash Sardana S/o Sh. Rishidev, age 62 years, resident of House No.671/B, Rishi Nagar, Nagar Bus Stand, Hissar-125001.

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

15. O.A. NO.60/128/2018

Sh. Ram Chander-II, S/o Sh. Pran Nath, aged 66 years, R/o House No.3328/50, Arya Nagar, Rewari-123401. Group C.

... APPLICANT

VERSUS

1. Union of India through its Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.

2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

16. O.A. NO.60/130/2018

Sh. Bhagwat Ram, S/o Sh. Bansi Dhar, aged 68 years, R/o House No.148, Mall Colony, Kaimari, Hisar-125001.

... APPLICANT

VERSUS

1. Union of India through its Secretary, Ministry of Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Superintendent of Rail Mail Services (RMS), D-Divn., New Delhi.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

17. O.A. NO.60/285/2018

Dal Chand age 60 years retired Postal Assistant, resident of House No.49-D, Industrial Area, Ambala Cantt. Group D.

... APPLICANT

VERSUS

- Union of India through
1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
 2. The Chief Post Master General, Haryana Circle, Ambala Cantt.
 3. The Senior Superintendent of Post Offices, Ambala Division, Ambala Cantt.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

18. O.A. NO.60/287/2018

Bodh Raj, age 65 years, resident of House No.58A, Kabir Nagar, Ambala Cantt.133001. Group C.

... APPLICANT

VERSUS

Union of India through

1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, Haryana Circle, Ambala.
3. The Senior Superintendent of Post Offices, Ambala Division, Ambala.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

19. O.A. NO.60/297/2018

Suresh Chand Sharma aged 60 years, Sub Master Buria resident of Village and Office Panjeto Tehsil Chhachhrauli, District Ambala. Group C.

... APPLICANT

VERSUS

Union of India through

1. The Secretary, Ministry of Communication and IT, Government of India, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, Haryana Circle, Ambala Cantt.
3. The Senior Superintendent of Post Offices, Ambala Division, Ambala Cantt.

... RESPONDENTS

PRESENT: Sh. R.P. Mehra, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

20. O.A. NO.60/986/2018

M.A. NO.60/1261/2018

M.A. NO.60/1742/2018

1. Vijay Chand S/o Shri Prem Chand, aged 67 years, Sorting Assistant, Group 'C' (Retired) resident of # 11, Grand Hotel Complex, Staff Road, Ambala City-133001 (Haryana).
2. Balvinder Kumar S/o Shri Kashmiri Lal, aged 63 years, Sorting Assistant, Group 'C' (Retired) resident of #228A, Vijay Nagar, Dayal Bagh, Ambala Cantt-133005.
3. Pawan Kumar Sharma, S/o Shri Tara Chand Sharma, aged 64 years, Sorting Assistant, Group 'C' (Retired) resident of # 46, Ashok Vihar, Behind BD Floor Mill, Ambala Cantt.-133001 (Haryana).

4. Sat Pal Singh S/o Shri Mam Chand, aged 67 years, Sorting Assistant, Group 'C' (Retired) resident of Village and Post Office Barota, District Karnal (Haryana)-132001.
5. Ajmer Singh, S/o Shri Tej Ram, aged 66 years, Sorting Assistant, Group 'C' (Retired) resident of # 64, Saraswati Colony, Sisrola Road, Kurukshetra-136131 (Haryana).
6. Hukum Chand S/o Shri Mangat Ram, aged 64 years, Sorting Assistant, Group 'C' (Retired) resident of # 3716, Gali No.9, Shiv Colony, Karnal-132001 (Haryana).
7. Sandeep Kalra S/o Sh. Nihal Chand, aged 66 years, Sorting Assistant, Group 'C' (Retired) resident of # 1633, Kachha Bazar, Chirimar Mohalla, Ambala Cantt. (Haryana)-133001.
8. Sumer Chand S/o Shri Lachhi Ram, aged 69 years, Sorting Assistant, Group 'C' (Retired) resident of # 11, Daya Bagh, Ambala Cantt.-133001.
9. Baljit Rai S/o Shri Puran Chand, Postal Assistant, Group 'C' (Retired) resident of #47-C, Shanti Nagar, Behind B.D. Floor Mill, Ambala Cantt. (Haryana)-133001.
10. Rattan Lal S/o Shri Rulia Ram, aged 66 years, Sorting Assistant, Group 'C' (Retired) resident of Hansi Road, Bahadar Chand Colony, Karnal-132001.

... APPLICANTS

VERSUS

1. Union of India through the Secretary, Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, New Delhi-110001.
2. The Chief Post Master General, Haryana Circle, Ambala Cantt.-133001.
3. The Superintendent, Railway Mail Services, Haryana Division, Ambala Cantt. 133001.

... RESPONDENTS

PRESENT: Sh. Manohar Lal, counsel for the applicants.
Sh. Sanjay Goyal, counsel for the respondents.

21. O.A. NO.60/987/2018 **M.A. NO.60/1262/2018** **M.A. NO.60/1740/2018**

1. Prem Singh S/o Sandhu Ram, aged 67 years, Sorting Assistant, Group 'C' (Retired) resident of # Gali No.11, Shiv Colony, Karnal-132001 (Haryana).
2. Mathura Parshad S/o Shri Bhola Nath, aged 65 years, Sorting Assistant, Group 'C' (Retired) resident of # 365, Jogi Mandi, Lacha Bazar, Ambala Cantt.133001 (Haryana).

3. Amar Nath-1, S/o Shri Sant Ram, aged 67 years, Sorting Assistant, Group 'C' (Retired) resident of # 175, Lal Kurti Bazar, Ambala Cantt.133001 (Haryana).
4. Rajinder Kumar S/o Shri Dina Nath, aged 68 years, Sorting Assistant, Group 'C' (Retired) resident of # 136-B, Rana Complex, Village and Post Office Babyal, District Ambala Cantt.133001 (Haryana).
5. Mam Chand S/o Shri Ram Saran, aged 65 years, Sorting Assistant, Group 'C' (Retired) resident of # 3-A, Shiv Partap Nagar, Opposite Telephone Exchange, Ambala Cantt.133001 (Haryana).
6. Kashmiri Lal S/o Shri Sadhu Ram, aged 64 years, Sorting Assistant, Group 'C' (Retired) resident of Village Bakala, Post Office Rasulpur, Via Sadhaura, District Yamuna Nagar-135204 (Haryana).
7. Sharan Dass, S/o Sh. Bhago Ram, aged 63 years, Sorting Assistant, Group 'C' (Retired) resident of Village and Post Office Sambhalki via Shahbad (M), District Kurukshetra-136135 (Haryana).
8. Om Parkash S/o Shri Kapooria Ram, aged 63 years, Postal Assistant, Group 'C' (Retired) resident of Village and Post Office Dinapur via Kesai, District Ambala Cantt. (Haryana)- 133001.
9. Raj Kumar-I, S/o Shri Chuni Lal, aged 61 years, Postal Assistant, Group 'C' (Retired) resident of # 25, Shiv Puri, Rama Complex, Babyyal Road, Ambala Cantt. (Haryana)- 133001.
10. Raj Kumar S/o Shri Raunki Ram, aged 60 years, SS (PLI), Group 'C' (Retired) resident of # 51, Gandhi Nagar, Behind B.D. Floor Mill, Ambala Cantt. (Haryana)- 133001.
11. Jagdish Chand S/o Shri Raunki Ram, aged 63 years, Sorting Assistant, Group 'C' (Retired) resident of # 62, Kiamat Nagar, Post Office Babyal, Near Animal Husbandry Hospital, Ambala Cantt. (Haryana)- 133001.
12. Jagdish Chand S/o Shri Bija Ram, aged 64 years, Sorting Assistant, Group 'C' (Retired) resident of # 469/5, Mohan Nagar, Kurukshetra-136118.
13. Banarsi Dass, S/o Shri Partala Ram, aged 65 years, Sorting Assistant, Group 'C' (Retired) resident of # Village and Post Office Panjokhra Sahib, Tehsil and District Ambala-134007.

... APPLICANTS

VERSUS

1. Union of India through the Secretary, Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, New Delhi-110001.
2. The Chief Post Master General, Haryana Circle, Ambala Cantt.-133001.
3. The Superintendent, Railway Mail Services, Haryana Division, Ambala Cantt. 133001.

... RESPONDENTS

PRESENT: Sh. Manohar Lal, counsel for the applicants.

Sh. Sanjay Goyal, counsel for the respondents.

**22. O.A. NO.60/1209/2018
M.A. NO.60/1888/2018**

SUBHASH CHANDER SON OF SHRI DHARAM CHAND, AGED 69 YEARS, (RETIRED APM) TOWER ARUN, FLAT NO. 704, SECTOR-137, PARAMOUNT FLORAVILLE, NOIDA (U.P)-201304. GROUP 'C'.

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

**23. O.A. NO.60/1210/2018
M.A. NO.60/1883/2018**

KANSHI RAM SON OF SHRI RAM RAKH, AGED 66 YEARS, (RETIRED SUB POSTMASTER, BEGU ROAD SIRSA, RESIDENT OF VILLAGE & POST OFFICE FOOLKA DISTRICT, SIRSA, HARYANA-125055. GROUP 'C'.

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

**24. O.A. NO.60/1211/2018
M.A. NO.60/1881/2018**

MOHAN LAL SON OF SHRI CHET RAM, AGED 27 YEARS, (RETIRED SUB POSTMASTER, VPO BALASAR, TEHSIL RANIA, DISTRICT SIRSA, HARYANA-125055. GROUP 'C'.

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

25. O.A. NO.60/1212/2018
M.A. NO.60/1889/2018

RAJINDER SINGH JOSHI SON OF SHRI JAMNA DASS, AGED 63 YEARS, (RETIRED AS POSTAL ASSISTANT), RESIDENT OF H.NO.1173/18, SANIAN MOHALLA, NEAR RADHA KRISHAN MANDIR, HISAR-125001, HARYANA. GROUP 'C'.

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

26. O.A. NO.60/1213/2018
M.A. NO.60/1572/2018
M.A. NO.60/1884/2018
M.A. NO.60/1886/2018

RAM SINGH SON OF SHRI BIRBAL, AGED 70 YEARS, (RETIRED SUB POSTMASTER, VPO AHMEDPUR DAREWALAL, POST OFFICE BIJJUWALI, VIA GORIWALA, DISTRICT SIRSA, HARYANA-PIN 125103, GROUP 'C'.

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

27. O.A. NO.60/1214/2018
M.A. NO.60/1885/2018
M.A. NO.60/1887/2018
M.A. NO.60/1573/2018

DEEP CHAND SON OF SHRI GOBIND RAM, RETIRED OFFICE ASSISTANT, AGED 60 YEARS, RESIDENT OF HOUSE NO. 1255/18, MOHALLA SANIAN, NEAR SH. RAM DARBAR MANDIR, HISSAR-125001, GROUP 'C'

... APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF INFORMATION TECHNOLOGY, DEPARTMENT OF POSTS, DAK BHAWAN, NEW DELHI-110001.
2. CHIEF POSTMASTER GENERAL, HARYANA CIRCLE, AMBALA-133001.
3. SUPERINTENDENT OF POST OFFICES, HISSAR DIVISION, HISSAR-1250001.

... RESPONDENTS

PRESENT: Sh. Rohit Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

28. O.A. NO.60/1335/2018
M.A. NO.60/1715/2018
M.A. NO.60/1716/2018
M.A. NO.60/1782/2018

1. Mohan Lal Sachdeva S/o Sh. Piara Lal, age 66 years, R/o H. No.2532/A, Vishkarma Town, Ludhiana (Punjab) Pin No.141003. (Group C).
2. Balram Raj, S/o Sh. Ram Rakha Mall, age 61 years, S/o 198, Street No.4, Jain Colony, Rahon Road, Ludhiana-141007.
3. Tarlochan Singh, S/o S. Sampuran Singh, age 63 years, R/o H. No.J-314/100, Bhai Ranbdhir Singh Nager, Ludhiana-141012.
4. Suresh Chander-II, S/o Sh. Hem Raj, age 64 years, R/o Plot No.3, Street No.10, New Kundan Puri, Civil Lines, Ludhiana-141001.
5. Bhupinder Singh-II, S/o S. Balwant Singh, age 65 years, R/o H. No.B-28, Plot No.2, Link Road, Phullanwal, Passi Nagar, Ludhiana-141013.
6. Harjinder Singh, S/o S. Amar Singh, age 65 years, H. No.8387/1, Street No.0, New Subhash Nager, Ludhiana-141007.
7. Sukhdev Singh-II, S/o Sh. Banta Ram, age 68 years, R/o H. No.2713, Street No.2, Kishore Nagar, Ludhiana-141008.
8. Jasbir Singh-I, S/o S. Ram Singh, age 65 years, R/o H. No.1394/5, Corporation Colony, St. No.2, Panj Peer Road, Ludhiana-141001.

9. Karam Chand, S/o S. Bansi Ram, age 62 years, R/o H. No.11214, Santosh Nagar, Haibowal Kalan, Ludhiana-141001.
10. Hem Raj, S/o Sh. Ram Parshad, age 68 years, R/o H. No.389, New Kundan Puri, Ludhiana-141001.
11. Om Kumar S/o Sh. Hem Raj, age 62 years, R/o H. No.B-1, 667/10A, Street No.2, Upkar Nagar, Civil Line, Ludhiana-141001.
12. Ravi Dutt S/o Sh. Biru Ram, age 68 years, R/o H. No.4344, Street No.9, Haibowal Kala, Ludhiana-141001.
13. Kasturi Lal S/o Sh. Ved Raj, age 62 years, H. No.24, Mohalla Arjun Nagar, Lodhowali Road, Jalandhar City-144001.
14. Samsher Singh, S/o S. Bhag Singh, age 65 years, Village Musahibpur, Distt. Hoshiarpur-144211.
15. Dev Raj-I, S/o Sh. Jagan Nath, age 68 years, Vill. Muradpur, District. Pathankot-145023.
16. Swaran Singh, S/o S. Sohan Singh, age 67 years, R/o Vill. Gandhian, District, Gurdaspur-145023.
17. Suresh Singh, S/o Sh. Bansi Lal, age 61 years, Vill. Chikli Karoli, Distt. Pathankot-145001.
18. Gulzari Lal S/o Sh. Narsi Ram, age 63 years, H. No.197, Swami Man Wali Gali, Vishkarma Lamani, Pathankot-145001.
19. Ramesh Lal-II, S/o Gian Chand, age 68 years, 173, Manwal Uttam Colony, Pathankot-145001.
20. Karam Chand-II, S/o Anant Ram, age 64 years, Vill. Manwal, District Pathankot-145001.
21. Chaman Lal-IV, S/o Sohan Lal, age 65 years, H. No.193, Ward No.7, Gita Bhawan Road, Gurdaspur-143521.
22. Mohan Lal-I, S/o Bashi Ram, age 65 years, H. No.242, Near Sarna Station, Vill.Rajpura, Distt. Pathankot-145001.

(All belong to Group-C).

... APPLICANTS

VERSUS

1. Union of India through the Secretary, Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, New Delhi, Pin-110001.
2. The Chief Post Master General, Punjab Circle, Sector-17, Chandigarh, Pin No.160017.
3. Senior Superintendent, R.M.S., KD. Division, Ludhiana, Pin.141008.
4. Superintendent R.M.D. I Division, Jalandar, Pin.144001.

... RESPONDENTS

PRESENT: Sh. M.K. Bhatnagar, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

ORDER (Oral)

...
SANJEEV KAUSHIK, MEMBER (J):-

1. This order shall dispose of the above captioned O.As., as they involve identical facts, reliefs and points of law and likewise is also requested by learned counsel for the parties.
2. For convenience, facts are being taken from the case of **Ishwar Dass & Others vs. U.O.I. Etc.**
3. The applicant assails order dated 31.08.2016 (Annexure A-1), whereby the respondents have denied him benefit of 3rd financial up-gradation in the pay scale of Rs.9300-38400+G.P. Rs.4800 under MACP Scheme on the ground that appointment of the applicant as Postal Assistant in the Pay Scale of Rs.260-480 was a promotion from the posts of Postman in the pay scale of Rs.210-270. He has further sought issuance of a direction to the respondents to grant him benefit of 3rd MACP in the pay scale of Rs.9300-38400+G.P. Rs.4800 w.e.f. 1.9.2008, on completion of 30 years service along with all the consequential benefits of arrears of pay, arrears of revised pensionary benefits along with interest @ 18% p.a. based on the judgment of Jodhpur Bench of the Tribunal in the case of **Bhanwar Lal Regar & Ors. vs. UOI & Ors.** O.A. No.382/2011, on the plea that appointment as Postal Assistant was a direct appointment.
4. After exchange of pleadings, the matter came up for hearing today.
5. On earlier occasion, learned counsel for the parties had informed this Court that similar issue has been decided in favour of the applicants in O.A. No.60/171/2014 decided on 16.12.2014 titled **Nand Kishore vs. UOI & Ors.** and it was prayed that this O.A. may be disposed of in the same terms.

6. Earlier Sh. Ram Lal Gupta was appearing on behalf of the respondents, however, today, Sh. Sanjay Goyal, SCGC, puts in appearance on behalf of the respondents. He states that now he has the instructions to represent the respondents. He produced copy of an order dated 23.01.2019 passed by the Hon'ble High Court in a bunch matters titled **Senior Superintendent of Post offices vs. Nand Kishore and another** (CWP No.4829 of 2015), whereby order 16.12.2014 passed by this Court has been set aside holding that the respondents therein (applicants here) cannot be granted benefit of 3rd MACP by treating that they had already been given one promotion under Limited Departmental Competitive Examination, therefore, that has to be considered as promotion for the purpose of ACP.
7. We have heard learned counsel for the parties.
8. Both the counsel are in agreement that this petition deserves to be dismissed in terms of aforesaid judgment of the Hon'ble High Court in the case of **Nand Kishore** (supra). Relevant para of the same reads as under:-

"On revision of the pay scales w.e.f. 1.1.1996, the post of clerk was re-designated as Postal Assistant. Respondent No.1 was allowed financial upgradation under the Time Bound One Promotion Scheme (TBOP) in the pay scale of Rs.1400-2300 on completing 16 years of service as Postal Assistant vide order dated 10.12.1998 w.e.f. 1.7.1996. He was granted 2nd financial upgradation under Biennial Cadre Review (BCR) Scheme on completion of 26 years of service as Postal Assistant vide order dated 10.7.2007 w.e.f. 1.1.2007. He retired on 31.8.2012 on attaining the age of superannuation. After two months of retirement he served legal notice claiming the benefit of 3rd ACP in the Grade Pay of Rs.4600/-.

The case of the petitioners (respondents in the OA) was that the Department of Posts introduced the TBOP Scheme for all the officials belonging to basic grades in Group 'C' and Group 'D' who had completed 16 years service in that grade. This scheme had come into effect from 30.11.1983. Respondent No.1 was granted this benefit w.e.f. 01.07.1996 vide order dated 10.12.1998. As per the BCR Scheme which came into force w.e.f.

01.10.1991, incumbents of existing posts were entitled to draw pay in the higher scales on completion of 26 years of service. In accordance with this scheme respondent No. 1 was granted financial upgradation w.e.f. 01.01.2007 on completion of 26 years of service.

The Department of Posts circulated the Modified Assured Career Progression Scheme (MACP) on 18.09.2009 which came into effect from 01.09.2008. The TBOP and BCR Schemes were withdrawn. As per this scheme, there shall be three financial upgradations counted from the Direct Entry Grade on completion of 10, 20 and 30 years service respectively. Financial upgradation under this Scheme was to be admissible whenever a person has spent 10 years continuously in the same grade pay. This Scheme ensures three financial upgradations in the entire career of those who could not get regular promotion. It was contended that respondent No.1 had already been granted three financial upgradations/promotions. Therefore, he was not entitled for further upgradation.

The particulars thereof were as under:-

Appointed as Postman	11.7.1974
Promoted as (Clerk) Postal Assistant (First financial upgradation)	30.6.1980
Second financial upgradation under TBOP Scheme (R-2)	1.7.1996
Third financial upgradation under BCR Scheme (R-4)	1.1.2007
Date of retirement	31.8.2012

His appointment to the post of Postal Assistant on passing the Limited Departmental Competitive Examination was a promotion.

Learned Tribunal allowed the Original Application relying on its earlier order passed in OA No.607-PB-2012 'Kharaiti Lal and others vs. Union of India and others' decided on 14.12.2003, wherein, it was held that appointment as Postal Assistant after passing of limited departmental examination is to be treated as direct appointment. It was ordered that the benefit of financial upgradation due to respondent No.1 are to be considered treating him as a direct recruit Postal Assistant.

Learned counsel for the petitioners has conceded that there are some decisions of different High Courts namely Delhi High Court in Union of India and ors Vs. Shakeel Ahmed Burney, 2014(39)RCR(Civil) 572, the Madras High Court in CWP No.30629/2014 Union of India and ors Vs. D. Sivakumar and another decided on 4.02.2015, the Rajasthan High Court in CWP No. 11709 of 2013 Union of India and other Vs. Har Govind Sharma decided on 10.08.2015 and Karnataka High Court in

Writ Petition No. 200807/2016 Union of India and ors Vs. Shri Basanna Nayak decided on 20.09.2016 which have affirmed the views of the respective Tribunals that appointment as Postal Assistant after passing limited departmental examination is not a case of promotion, but is one of direct recruitment. SLPs against such decisions have also been dismissed. He has however argued that in the said judgments the applicable Rules have not been considered. He argued that the issue has been considered in detail by a Division Bench of the Rajasthan High Court in Ramkaran Kumhar vs. Union of India and others (Rajasthan) (DB) 2016 SCC OnLine Raj 5751. In that case interpreting similar rules the High Court held that appointment to the post of 'Inspector of Posts' by way of limited departmental competitive examination from amongst various cadres/ posts namely Postal Assistants, Stenographers, LDC, Staff of Director of Postal Accounts was by way of promotion. Further reliance has been placed on another decision of the Rajasthan High Court in CWP No.18488 of 2016 titled "The Union of India and others vs. Dev Karan Mahala and others" decided on 10.5.2018 where Ramkaran Kumhar's case was followed.

Learned Counsel for the respondent No. 1 on the other hand relied on the decisions of the High Courts taking a contrary view.

We have heard learned counsel and are of the view that the writ petitions deserve to be allowed.

It is not disputed that appointment of Postal Assistants is governed by the 'Indian Posts and Telegraphs (Time Scale Clerks and Sorters) Recruitment Rules, 1971' (for short "1971 Rules"). [It has come on record that on revision of the pay scales w.e.f. 1.1.1996, the post of clerk was re-designated as Postal Assistant]. The same is as under:

"1. Short Title and Commencement.- These Rules may be called the Indian Posts and Telegraphs (Time Scale Clerks and Sorters) Recruitment Rules, 1971.

2. Application.- These rules shall apply to the posts as specified in column 2 and 3 of the said Schedule.

3. Classification and Scale of Pay.- The classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 and 3 of the said Schedule.

4. Method of Recruitment, Age-limit and other qualifications.-

The Method of Recruitment, Age-limit and other qualifications.-

The method of recruitment to the said posts, age limit, qualifications and other matters relating to them shall be as specified in columns 4 to 12 of the Schedule aforesaid:

Provided that the upper age-limit prescribed for direct recruitment may be relaxed in the case of the Scheduled Castes and the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time.

5. Disqualifications.- No person, (a) who has entered into or contracted a marriage with a person having a spouse living, or

- (b) Who having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the said post. Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.
6. Power to relax. Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.
7. Saving.-Nothing in these rules shall affect the reservations and other concessions required to be provided for the Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of the posts	Classification	Scale of pay	Whether selection post or non-selection post.	Age limit for direct recruits	Educational qualifications and other qualifications for direct recruits.
1	2	3	4	5	6
Time scale clerks and sorters excluding the time scale clerks in Telecommunication Accounts Branch).	General Central Service Class III, Non-gazetted Ministerial		Not applicable	Between 18 and 25 years on the 1st July of the year of recruitment	Matriculation or equivalent examination conducted by a University or Board of any State

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Period of Probation	Method of recruitment whether by direct recruitment or by promotion or transfer and percentage of vacancies to be filled by various methods	In the case of recruitment by promotion grades from which promotion to be made	If the DPS exists, what is its composition	Circumstances in which UPSC to be consulted in making recruitment
7	8	9	10	11	12

It is evident from a bare perusal of these Rules that 50% posts of clerks and sorters were to be filled by direct recruitment and 50% by way of promotion through a test from amongst permanent and quasi-permanent officials below the time-scale of Clerks and Sorters grade in accordance with the orders issued by the Posts and Telegraphs Board from time to time.

In Ramkaran Kumhar's case (Supra) the Court was considering the question whether appointment to the post of Inspector of Posts through a limited Departmental Competitive Test from amongst various cadres of Postal Assistants, Stenographers, LDC as per the 'Department of Posts Inspector of Posts Recruitment Rules, 2001' (for short "2001 Rules") was a case of promotion or of direct recruitment. The Court held it to be a case of promotion. It was noticed that as per the 2001 Rules the post of 'Inspector of Posts' was required to be filled in the ratio of 33.34% by direct recruitment through Staff Selection Commission and 66.66% by way of promotion through limited Departmental Competitive Examination. It was held that merely because the post of 'Inspector of Posts' by promotion is to be filled by way of limited Departmental Competitive Examination from amongst the employees holding the posts specified, it cannot be treated as direct entry. It was affirmed that where the Rules specifically provide for promotion quota, maybe to be filled in by way of limited Departmental Competitive Examination, the promotions made in such manner have to be considered as promotions for the purpose of ACP Scheme. The relevant observations are as under:

"8. Learned counsel appearing for the petitioner contended that the Postal Assistants do not have multiple channel of promotion, they have only one channel of promotion to the post of LSG and from LSG to HSG II. It is submitted that the promotion earned by competitive examination on the post of Inspector of Posts is open to all and sundry grades fulfilling the requisite eligibility condition and it cannot be construed in regular line/channel of promotion for Postal Assistants. Learned counsel submitted that the Inspector of Posts is not functional promotion post for the post of Postal Assistant and therefore, one who is holding the post of Postal Assistant cannot be granted financial upgradation in the scale meant for post of Inspector of Posts as per para 7 of conditions for grant of ACP benefits and thus, the Tribunal has apparently erred in treating the appointment of the petitioner to the post of Inspector of Posts as regular promotion so as to deny him the consideration for grant of first financial up-gradation on completion of 12 years of service on the post of Inspector of Posts. In support of the contention, learned counsel has relied upon a Bench decision of this court dated 10.8.15 rendered in "Union of India & Ors. v. Har Govind Sharma" (D.B. Civil Writ Petition No.11709/13 and 22 others).

9. *On the other hand, the counsel appearing for the respondents submitted that in the ACP Scheme, it is nowhere provided that promotion to the post of Inspector of Posts through limited Departmental Competitive Examination shall be treated as direct entry. It is submitted that the case of the petitioner is covered by the clarification no.8 and 24 (a) issued by the Department of Personnel & Training vide Office Memorandum dated 10.2.2000, which clarifies that promotion through departmental examinations are to be treated as promotion for the purpose of financial upgradation under the ACP Scheme. It is submitted that the regular line of promotion of Postal Assistant is to LSG, HSG II and HSG I but they are also eligible to appear in the limited Departmental Competitive Examination for promotion to the post of Inspector of Posts and therefore, the same has to be treated as promotion for the purpose of financial upgradation under the ACP Scheme and the past services to be counted for granting ACP. Accordingly, it is submitted that the Tribunal has committed no error in holding that the appointment of the petitioner to the post of Inspector of Posts has to be treated as regular promotion in terms of ACP Scheme and thus, the petitioner having availed one promotion, is entitled for consideration for grant of benefits of second up gradation on completion of 24 years of service under the ACP Scheme.*
10. *We have considered the submissions of the learned counsels for the parties and perused the material on record.*
11. *Indisputably, the Inspector of Posts and Inspector of RMS were merged into a single cadre and thus, the new combined cadre of Inspector of Posts came into existence. As per the provisions of the Department of Posts Inspector of Posts Recruitment Rules, 2001 (for short "the Rules"), the posts of Inspector of Posts are required to be filled in, in the ratio of 33.34% by direct recruitment through Staff Selection Commission and 66.66% by way of promotion through limited Departmental Competitive Examination. It is true that the Inspector of Posts by way of promotion is not recruited from a single lower cadre/grade/scale of the Postal Assistant only but, from among various cadres/grade/scale like Stenographers, LDC, Staff of Director of Postal Account also, but then, on that account, the channel of promotion provided, may be by way of limited Departmental Competitive Examination, shall not cease to be a channel of promotion provided to the employees holding the posts specified. In other words, merely because, the post of Inspector of Posts by promotion is filled in by way of limited Departmental Competitive Examination from amongst the employees holding the posts specified, their promotion to the post cannot be treated as direct entry. A bare perusal of the ACP Scheme and the clarification issued by the Government of India, makes it abundantly clear that for grant of two financial up gradation under the*

ACP Scheme, the entire Government service of an employee shall be counted against regular promotion including the promotion through limited Departmental Competitive Examination availed from the grade in which an employee was appointed as direct recruit. We are of the considered opinion that where the rules specifically provides for promotion quota, may be to be filled in by way of limited Departmental Competitive Examination, the promotions made by the method specified as aforesaid, has to be counted as promotion for the purpose of ACP Scheme. Thus, the petitioner herein, who has already availed one regular promotion shall be entitled for consideration of his case for the purpose of second financial up-gradation only on completion of 24 years of regular service under the ACP Scheme. In this view of the matter, the order impugned passed by the Tribunal does not suffer from any error so as to warrant interference by this court in exercise of its extra ordinary jurisdiction."

SLP(C) No.21315 of 2016 titled 'Ramkaran Kumhar Vs. Union of India and others' against this judgment was dismissed by Hon'ble Supreme Court vide order dated 18.11.2016.

In Dev Karan Mahala's case (supra) the Union of India had challenged the orders of the Central Administrative Tribunal whereby the Original Applications filed by the respondents therein had been allowed relying on the decision in the case of Har Govind Sharma(supra) which had been followed by the Karnataka High Court, Madras and Delhi High Court. The Division Bench of the Rajasthan High Court referred to and considered all such judgments of the different High Courts which are being relied on by respondent No. 1. It also took note of the orders of the Hon'ble Supreme Court whereby SLPs against the decisions were dismissed. It affirmed and followed the decision in Ramkaran Kumhar case (supra). It was noticed that in Har Govind Sharma's case (supra) the relevant recruitment Rules namely the 'Indian Posts and Telegraphs (Postmen/Mailguards) Recruitment Rules, 1969' where under the Original Applicants therein had been promoted from Group D to Postmen had not been considered. It was also noted that the judgment in Har Govind Sharma's case had been diluted by the subsequent decision of the Division Bench in Ramkaran Kumhar's case. Accordingly it was held that in view of the Rules the selection and appointment to the post of Postman of an employee holding a Group D post in the Postal Department was a promotion. The petitions were allowed and the orders of the Tribunals set aside.

It is also relevant to note that the Delhi High Court in W.P.(C) No.2806 of 2016 titled "Union of India and ors. vs. Shakeel Ahmad Burney" noticing the contention on behalf of the Union of India that the respondent therein was appointed as Postal Assistant under 50% quota for promotion through a test and

could not be equated with direct recruits vide its order dated 01.04.2016 stayed the order of the Tribunal. The order is reproduced below:

"Learned counsel for the petitioners submits that the respondent was appointed as Postal Assistant under 50% quota for promotion through test. It is accordingly submitted that the respondent's case cannot be equated with the case of direct recruits, who had joined the said post under a different recruitment process. Issue notice returnable on 27th July, 2016.

There will be stay of the impugned order till the next date of hearing. "

The case is yet pending and the interim order has been continued.

We may also note two decisions of the Delhi High Court, WP(C) 2887/2012 Man Singh vs. Union of India and others decided on 21.12.2012 and Ajay Panday v. UOI 2014 (14) S.C.T. 250 where it has been held that filling up the promotional post from the feeder cadre by limited departmental competitive examination is a case of promotion.

In Man Singh's case (supra) the question was whether the appointment to the rank of Assistant Commandant in the Central Industrial Security Force (CISF) by Limited Departmental Competitive Examination tantamounts to appointment by promotion or is a direct recruitment appointment. The appointments to different posts in the CISF are effected either by direct recruitment or by promotion from the feeder posts in the CISF. Considering the increasing need for direct Assistant Commandants, 17% posts from the promotion quota of Feeder Cadre were diverted to cater for the vacancies to be filled up by conducting Assistant Commandant/Limited Departmental Competitive Examination which was open to departmental candidates only. The Limited Departmental Competitive Examination comprised of a written examination, a physical efficiency test, an interview and a medical examination. The Court held that appointment through the LDCE is a mode of promotion. Reliance was also placed on clarification issued by the Department of Personnel & Training Estt. that the LDCE is a mode of promotion.

The decision in Man Singh's case (supra) was followed in Ajay Panday's case and it was affirmed that the appointments through the LDCE would fall in the category of appointments by promotion being in a manner of speaking accelerated promotions effected departmentally though through competitive examinations.

We now refer to the decisions relied on by respondent No.1 where a contrary view has been taken.

The Jodhpur Bench of the Central Administrative Tribunal in O.A. No. 382/ 2011 and connected cases Bhanwar Lal Regar Vs. Union of India and ors was considering the question as to

whether the selection and appointment of a Group-D employee of the Postal Department as a Postman and his further appointment as a Postal Assistant after successfully clearing the departmental examination was a case of promotion or not. The Tribunal held when Group-D employees after facing a process of selection were appointed as Postmen, such selection could not be termed as a promotion as it was not done in the course of natural progression through seniority. Any advancement in career, which is based on a process of selection especially undertaken for that purpose could not be called as promotion. A promotion has to be in higher category in the same cadre or service or through a prescribed avenue of promotion but without an element of a process of selection through tests or examinations etc. Similarly with regard to selection and appointment to the posts of Postal Assistants, the Tribunal noted that before being so posted the applicants had faced the limited departmental competitive examination and qualified to become Postal Assistants. Their joining as such was not in the nature of promotion in their earlier existing cadre but was career advancement through a process of selection and could not be called a promotion.

A Division Bench of Rajasthan High Court dismissed the Writ Petitions filed by the Union of India challenging the aforesaid orders in Union of India and other Vs. Har Govind Sharma (supra) by observing as under:

"....In these petitions for writ the argument advanced on behalf of the writ petitioners is that the respondent applicants were recruited and appointed as Group-D employees and thereafter by way of promotion appointments were given to them as Postmen/Sorting Assistants. The date of appointment as such was the date on which they were appointed as Mail Guard/ Extra Departmental Agents/ Gram Dak Sewaks and thereafter promotion was accorded to them on the next higher post, as such their term of stagnation in one grade pay is required to be determined accordingly. No other contention except the above is addressed before us. Having considered the argument advanced we do not find any merit with the same. Learned counsel appearing on behalf of the appellant on asking again and again failed to point out any provision for promotion to the post of Postman/ Sorting Assistant. On the other hand, from perusal of the orders of appointment to the post of Postal Assistant/ Sorting Assistant, it is apparent that the respondent original applicants faced an examination, may that be a limited competitive examination, i.e. nothing but direct recruitment. Their joining as Postal Assistants was not at all in the nature of promotion, hence their services for the grant of benefits under modified assured career progression has to be counted only from the date they were appointed as Postal Assistants/Sorting Assistants. The services rendered by them on earlier post prior to their appointment as Postal

Assistants/Sorting Assistants are absolutely inconsequential for the purpose of grant of modified assured career progression. At the cost of repetition it shall be appropriate to mention that the petitioners failed to point out any provision for appointment to the post of Postal Assistant/Sorting Assistant by way of promotion and to point out any order of appointment making appointment of the original applicants on the post concerned by way of promotion."

The writ petitions were dismissed by observing that the Counsel for the petitioners (Union of India and ors) had failed to point out any provision for appointment to the post of Postal Assistant/Sorting Assistant from the Group D post by way of promotion and to point out from their order of appointments that their appointments as such was by way of promotion.

Review petitions being D.B. Writ Review Petition No.171/2016 Union of India and ors Vs. S.N. Singh Bhati and connected cases seeking review of this order were dismissed on 3.01.2018. The relevant observations are as under:

"6. Learned counsel for the respondents point out that similar is the view taken by the Division Bench of the Madras High Court in Civil Writ Petition No.30629/2014, Union of India &Ors. vs. D. Sivakumar & Anr. against which decision SLP(C) No.4848/2016, Union of India & Ors. vs. D. Sivakumar was dismissed by the Supreme Court on 16th August, 2016 after condoning the delay. Review sought of the order dated 16th August, 2016 vide Review Petition (C) No.1939/2017 was dismissed by the Supreme Court as recently as on 13th September, 2017. Learned counsel further submit that even a Division Bench of the High Court of Karnataka in Writ Petition 200807/2016, The Union of India & Ors. vs. Shri Basanna Nayak has taken a similar view. Learned counsel for the respondents point out that in the Madras Circle and Karnataka Circle the decisions have been implemented.

7. Learned counsel for the review petitioner does not dispute aforesaid facts pertaining to the decisions of the Madras High Court and Karnataka High Court having attained finality on the same issue. The decision passed by the Central Administrative Tribunal brings out that Group-D employees, irrespective of their seniority participated in a merit based selection and appointed to the higher post were never treated as a case of promotion. The examination was not a Limited Departmental Qualifying Examination but was a Limited Departmental Competitive Examination. Before the MACP Scheme was introduced the department had a TBOP/BCR Financial upgradation Scheme and under the said Scheme benefit was granted treating the appointment as one of direct recruitment and not by way of promotion."

SLP (Civil) No. 23260/2018 titled as Union of India and ors Vs. Bhanwar Lal Regar was dismissed on 10.08.2018.

The Madras High Court in Union of India and ors Vs. D. Sivakumar and another (supra) affirmed the view of the Central Administrative Tribunal (Madras Bench) in OA No. 1088 of 2011 that appointment as Postal Assistant was in the nature of direct recruitment. The Tribunal had relied on the decision of the Jodhpur Bench of the Central Administrative Tribunal in O.A. No. 382/ 2011 and connected cases Bhanwar Lal Regar Vs. Union of India and ors. Significantly, the Madras High Court while dismissing the writ petitions also did not refer to the relevant rules.

The relevant part of the observations of the High Court is as under:

"9. What the Department had done is to adjust the appointment of the first respondent as the Postal Assistant on 12.11.1977, as the first financial upgradation under Modified Assured Career Progression-I. This is clearly erroneous in view of the fact that the appointment as Postal Assistant was not granted to the first respondent after mere completion of 10 years in the Cadre of Postman. From the Cadre of Postman, to which, the first respondent got appointed on 22.9.1973, he participated in a selection to the post of Postal Assistant and got appointed. Therefore, to adjust the said appointment against Modified Assured Career Progression-II, is clearly erroneous. Once that error is removed, it will be clear that the first respondent would be entitled to three modified assured career progressions for every ten years. Hence, we are of the opinion that the Tribunal was right in directing the Department not to take into account the appointment granted to the post of Postal Assistant and to adjust Modified Assured Career Progression-I.

10. Moreover, it is to be pointed out that even the second modified assured career progression was granted under the Modified Assured Career Progression Scheme only after 16 years and the third is said to have been granted after 26years. If the first appointment is adjusted against Modified Assured Career Progression-I, this could not have actually happened. For doing so, the Department has counted the first appointment as 12.11.1977. Therefore, they cannot do so for the Modified Career Progression Scheme in a different manner."

SLP (C) No.4848/2016 Union of India and Ors. vs. D. Shivakumar, against this judgment was dismissed on 16.8.2016. However the question of law was kept open.

The Delhi High Court in *Union of India and ors Vs. Shakeel Ahmed Burney*, 2014(39) RCR (Civil) 572 considered the Rules wherein the mode of recruitment in Rule 3 was as under:

"3. Recruitment- Recruitment will be by a competitive examination which will be open to
 (a) Departmental Officials of all classes below the clerical cadre in the post offices hereafter called departmental candidates and
 (b) Outside candidates."

Analyzing Rule 3 the Court observed that it was apparent that the entry was through a competitive test which was open both to the departmental candidates as well as outside candidates. There was no defined feeder post for promotion. As the departmental candidates had to qualify in the competitive examination along with outside candidates, the order of the Central Administrative Tribunal holding that the entry of departmental candidates to the post of Postal Assistant was by way of direct recruitment was affirmed.

The Karnataka High Court in the case of *Shri Basanna Nayak (supra)* relied on the decisions of the Rajasthan High Court in *Har Govind Sharma (supra)* and the Delhi High Court in *Shakeel Ahmed Burney (supra)* in holding that the appointment of the applicants-Postmen on the post of Postal Assistants through a limited departmental competitive test was a case of direct recruitment and not of promotion. In this case also the relevant Rules were not referred to.

Thus, it is apparent that the decisions relied on by respondent No.1 have been rendered without consideration of the 1971 Rules as per which 50% posts of clerks and sorters were to be filled by direct recruitment and 50% by way of promotion through a test from amongst permanent and quasi-permanent officials below the time-scale of Clerks and Sorters grade in accordance with the orders issued by the Posts and Telegraphs Board from time to time. It has also been held that an appointment made after holding a limited departmental competitive examination cannot be termed as a promotion but would be a case of direct recruitment.

These decisions have rightly been distinguished by the Rajasthan High Court in the recent case of *Dev Karan Mahala*. *Har Govind Sharma's* case was earlier distinguished in *Ramkaran Kumhar's* case and it was held that where rules specifically provide for a promotion quota which may be filled in by way of Limited Departmental Competitive Examination, the promotions so made have to be considered as promotions for the purpose of ACP. The Delhi High Court in the cases of *Man Singh* and *Ajay Panday (supra)* has also held that promotions made through a Limited Departmental Competitive Examination from amongst the departmental candidates falling in the feeder cadre are promotions and not direct recruitments. *Ramkaran Kumhar*

has been affirmed and followed in Dev Karan Mahala's case (supra).

We are in respectful agreement with the ratio of the judgments in Ramkaran Kumhar and Dev Karan Mahala's case (supra).

Accordingly, these writ petitions are allowed. The orders of the Central Administrative Tribunal are set aside. It is held that the selection and appointment of the Original Applicants as Postal Assistants after passing the departmental test is a promotion and not direct recruitment. Their entitlement to ACP/MACP be considered accordingly."

9. In the light of view taken by the Hon'ble High Court, in the case of **Nand Kishore** (supra), that the appointment of the incumbents as Postal Assistant, after passing the departmental test is a promotion and not direct recruitment, the very basis of filing of these cases loses its sheen and relied upon cases having been over ruled, these O.As. are dismissed. All the pending MAs also stand disposed of accordingly. No costs.

10. A photocopy of this order be placed in all the linked files.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 21.02.2019.
Place: Chandigarh.

`KR'