

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.504/2013

Thursday, this the 6th day of December 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

1. Rajbir Yadav son of Shri Meer Singh
Postal Assistant
Mail Motor Service
New Delhi – 110 028
2. Mukul
Son of Shri Niramal Aind
Working at Postal Assistant
3. Ajay Kumar
Son of Shri Naresh Sharma
Working as Postal Assistant
Both at c/o MMS, C-121
Naraina Vihar, New Delhi
4. Arun Kumar Kataria
Son of Shri M S Kataria
Working as Postal Assistant
c/o MM, Netaji Nagar Depot
New Delhi – 110 023
5. Vipin Kumar
Son of Shri Kishan Lal
Postal Assistant
Mail Motor Service
New Delhi – 110 028
6. Jagdish Poddar
Son of Shri Prabhu Poddar
Postal Assistant
Mail Motor Service
New Delhi – 110 028

..Applicants

(Ms. Rita Koul, Advocate)

Versus

1. Union of India through the Secretary
Ministry of Communication & IT
Govt. of India

Department of Posts
 Dak Bhawan, Sansad Marg
 New Delhi – 110 001

2. Chief Post Master General
 Delhi Circle, Meghdoot Bhawan
 New Delhi

(Mr. U Srivastava, Advocate)

..Respondents

O R D E R (ORAL)

Mr. K.N. Shrivastava:

These applicants were appointed as Postal Assistants in Mail Motor Service (MMS) Wing of Department of Posts between the years 1991 to 1997. As per the Recruitment Rules, the Postal Assistant can be promoted to the next higher post of Inspector Mail Motor (IMM) by clearing departmental examination. The residency period for appearing in such examination is 5 years (continuous service)

2. Further promotion to the next higher post of Assistant Manager is by virtue of seniority and service records. It is stated that the Department decided to merge the post of IMM with that of Assistant Manager and accordingly, Annexure A-B letter dated 05.05.2005 came to be issued, which would read as under:-

“Consequent upon placement of Inspector Mail Motor Service and Assistant Manager, Mail Motor Service in an identical pay scale of Rs.5500-175-9000/-, it has been decided to merge the posts of Inspector Mail Motor Service and Assistant Manager, Mail Motor Service into a single grade with nomenclature of Assistant Manager, Mail Motor Service” in the pay scale of Rs.5500-175-9000/-. Henceforth, there will be no grade of Inspector Mail Motor Service.”

3. As a consequence of the merger of the post of IMM with that of Assistant Manager, the departmental examination scheduled in the year 2005 for promotions from IMM cadre to Assistant Manager cadre was cancelled and Annexure-C letter dated 29.07.2005 was issued to that effect.

4. In view of the cancellation of the departmental examination, the respondents, for the exigencies of work, decided to promote some Postal Assistants to the post of Assistant Manager on *ad hoc* basis. Accordingly, Annexure-G order dated 25.06.2008 came to be issued. The contents of the said order are extracted below:-

“Applications are hereby invited from the eligible officials to fill up the vacant posts of Asstt. Manager, MMS on adhoc basis in the pay scale of Rs.5500-175-9000 from the permanent or quasi-permanent employees of MMS in the grades lower than that of Asstt. Manager of MMS having 5 years continuous service in Mail Motor Service.

The applications of intending officials fulfilling the following conditions may be applied on plain paper alongwith a copy of valid driving licence should be reached in the office on or before 27.06.2008.

Eligibility

<p>1. Age</p> <p>2. Education and other qualifications required.</p>	<p>40 years as on 1st January of the recruitment year. 45 years in the case of SC/ST candidates</p> <p>i) Matriculation or equivalent certificate from a recognized educational Institute.</p> <p>ii) Possession of a valid driving licence. The officials must have a satisfactory record of service.</p>
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5. The applicants became beneficiaries of such a decision. Annexure-H order dated 11.07.2008 was issued promoting them, *ad hoc* basis, to the post of Assistant Manager. They have, however, been reverted back to the

post of Postal Assistant vide impugned Annexure-A (colly.) orders, after they attained the age of 40 years.

6. The grievance of the applicants is that several of the juniors have been promoted to the post of Assistant Manager on *ad hoc* basis, whereas they have been reverted from that post and as such have been made to work under their juniors. Accordingly, they have approached the Tribunal in the instant O.A., praying for the following main reliefs:-

“i) direct the respondents to frame the recruitment rules, exempting the age limit and conduct the departmental examination for the post of Asstt. Manager;

i(a) and till then the applicants, who have been reverted back, be again appointed on the post of Asstt. Manager by regular an appointment letter;

ii) direct the respondents to give the regular appointments to the applicants on the post of Asstt. Manager, who were eligible at the time of merger i.e. in the year 2005 for the post of IMM i.e. the feeder of cadre Asstt. Manager;

iii) direct the respondents to give to the applicants the pay scale of Rs.9300-34800/- + Grade Pay Rs.4600/- from the period the applicants were reverted back till the regular appointments on the post of Asstt. Managers are made;

iv) direct the respondents not to make any regular appointment to the post of Asstt. Manager, except the eligible candidates of the year 2005.”

7. Pursuant to the notices issued, the respondents entered appearance and filed their reply as well as an additional affidavit. The respondents have contended that promotions from the cadre of Postal Assistant to the cadre of Assistant Manager can only be undertaken after the Recruitment Rules are suitably amended, incorporating the decision of the Department vide Annexure-B order dated 05.05.2005. However, in the *interregnum*, the

Department has decided to promote some Postal Assistants, *ad hoc* basis. to the post of Assistant Manager to meet the exigencies of situation. It is further clarified by the respondents that the *ad hoc* promotion to the post of Assistant Manager has been allowed only till the incumbents attain the age of 40 years.

8. Clarifying the relevance of 40 years age limit, it is stated that the Postal Assistants below the age of 40 years only were eligible to participate in the departmental examination for promotion to the post of IMM.

9. Heard learned counsel for the parties.

10. It is very unfortunate that after the merger of the post of IMM with that of Assistant Manager by virtue of the decision of the respondent-department in the year 2005, no alacrity has been shown by the respondents to amend the Recruitment Rules. This has resulted in complete blockade of regular promotions and the applicants are victim of this incongruity. They have earlier worked as Assistant Manager (*ad hoc*) but now they are made to work under their juniors in the Postal Assistant cadre, who are now occupying the post of Assistant Manager, *albeit* on *ad hoc* basis. Such a situation does not augur well for functioning of any department. It gives room to heartburn and frustration. The principle of seniority has been thrown to the winds by creating such a situation, which is also against the principles of natural justice.

11. In the conspectus, we allow this O.A. in the following terms:-

- a) *The respondents shall put the applicants back into the post of Assistant Manager (ad hoc), in case they are found to be senior, in the cadre of Postal Assistant, to some of the present incumbents working as Assistant Manager (ad hoc).***
- b) *For implementing (a) supra, if some of the present incumbents are to be reverted to the post of Postal Assistant, let that be done.***
- c) *The direction (a) supra shall be complied with within a period of two months from the date of receipt of a copy of this order.***

There shall be no order as to costs.

(S.N. Terdal)
Member (J)

December 6, 2018
/sunil/

(K.N. Shrivastava)
Member (A)