

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/000234 TO 237/2018

DATED THIS THE 13TH DAY OF JUNE, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

1.Vemuni GVLN Satish
Age: 47 years,
S/o Subramanyen
Working as Assistant Engineer (Adhoc),
Postal Civil Sub Division II,
1st Floor, Bangalore, GPO-560001.
Residing at: No.1/1, 2nd Cross,
Manoraya palya,
Bangalore, GPO-560032.

2.V.V. Tale
Age: 44 years,
S/o Vilas Tale,
Assistant Engineer (Civil),
Postal Civil Sub Division,
Bolar,Mangalore-575001.
Resident of C-5 Postal Staff Quts,
Bolar,Mangalore-575001.

3.Smt S.S. Dhumwad,
Age: 47 years,
W/o Dr. S.D. Dhumwas,
Assistant Engineer (Civil),
Postal Civil Sub Division,
Vijayapura-586 101.
Resident of Plot No.127, KIABD Layout,
Haliyal Road,
Near Ashoka Garden Hotel
Dharwad-580003.

4.S.S.S. Venkateswara Rao,
Age: 44 years,
S/o A.V.V. Satyanarayana,
Assistant Director (Bldg),
O/o Chief Postmaster General,
A.P. Circle, PSD Bldgs,
Krishna Lanka, Vijayawada-520013.
Residential No 21-9/3-1,
Pasupathata 2nd line,
Madhuranagar,

Vijayawada-520013.

...Applicants

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Through Secretary,
Department of Post,
Dak Bhavan,
New Delhi.
2. Chief Engineer (Civil) HQ,
Department of Post,
Dak Bhavan,
New Delhi.
3. Chief Post Master General
Karnataka Circle,
Bangalore-560 001.
4. Chief Post Master General
Andhra Circle,
Vijayawada-520013.

...Respondents

(By Standing Counsel Shri M. V. Rao for the respondents)

ORDER (ORAL)

HON'BLE DR.K.B.SURESH ...MEMBER(J)

Heard. The matter is covered by notification dated 10.11.1993 issued by the Ministry of Communications, Department of Telecommunications, New Delhi vide para 7 and Note-1, which we quote:

“7. Result – (1) candidates will be arranged in the order of merit as disclosed by the aggregate marks finally awarded to each candidate, and in that order so many candidates as are found qualified in the examination shall be recommended for promotion up to the required number.

Provided the candidates belonging to the Scheduled castes or the Scheduled Tribes may, to the extent the number of vacancies reserved

for the Scheduled Castes and the Scheduled Tribes cannot be filled on the basis of the general standard, be recommended by a relaxed standard to make up the deficiency in the reserved quota, subject to the fitness of these candidates for promotion irrespective of their ranks in the order of merit in the examination.

Note:1. Candidates should clearly understand that this is a competitive examination and not a qualifying examination. The number of persons to be promoted on the results of the examination is entirely within the competence of Government to decide. No candidate shall therefore have any claim for promotion on the basis of his performance in this examination, as a matter of right.

Note: 2. If equal aggregate mark is secured by more than one candidate, the inter-se-rank among them will be decided on the basis of their length of service in the Junior Engineer Grade.”

2. Apparently, the contrary stand taken by the respondents in the reply is that this is only a qualifying examination and not a competitive examination. But in the circular it is clearly mentioned that it is nothing but a competitive examination and therefore, going by the Clause 7 of the circular, the best among them should be appointed and there cannot be any credence value attached to Annexure A-3, which we now quote:

No.4-4/2007-CWP/
Ministry of Communication & IT
Department of Posts
(CWP Section)

18th March, 2010.

***Sub: Outsourcing of all Departmental Examinations
Ref: 60-9/2009-SPB-I dated 16.3.2010.***

The case has been examined and original note with the remarks has been given by hand to Shri L. Mohan Rao, ADG(DE), Departmental Examinations on 18.3.2010. The Appendix for Assistant Engineer (Civil)/(Electrical), LDCE Examination, 1993 provides:

Part(1): "Written examination which will be job oriented carrying a maximum of 600 marks in the subjects as shown in para 2 below:

Part II Evaluation of record of service of such candidates as may be decided by the department, carrying a maximum of 200 marks."

Qualifying marks have not been stated in the circular and as such the following qualifying marks may be prescribed.

Part (1): 150 marks in each paper for general category and 120 marks in each paper for SC/ST category.

(2) 100 marks for general all categories based on evaluation of record of service of the candidates as may be decided by the department.

-sd/-

(D.K. Gupta)

Chief Engineer(Civil) Hq.

3. Therefore Annexure A-5 is against the circular issued by the Government and Annexure A-5 is hereby quashed.

4. The respondents are directed to immediately formulate the Gradation List on merit and according to the vacancies now available, promote all those who have been covered in that list. This may be done within the next 2 months.

5. OA allowed. No costs.

(C.V. SANKAR)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

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Annexures referred to by the Applicant in OA No.170/00234-237/2018

Annexure A1 Copy of Ministry of Communication, Department of Post (CWP Section) letter No.4-14/2010-CWP/461 dated 4.1.18.

Annexure A2 Copy of Recruitment Rules dated 11.11.1992 and Regulations issued by Ministry of Communications dated 10.11.1993.

Annexure A3 Copy of Ministry of Communication and I.T. Department of Posts (DE(Section) letter dated 13.10.2009.

Annexure A4 Copy of Ministry of Communication and I.T. Department of Posts letter dated 17.2.2010.

Annexure A5 Copy of Ministry of Communication and I.T. Department of Posts CCWP Section letter dated 18.3.2010.

Annexure A6 Copy of D.G. Post, Ministry of Communication and I.T. letter dated 26.9.2017 as endorsed by Chief Post Master General, Karnataka letter dated 27.9.2017.

Annexure A7 Copy of representation dated 13.10.2017

Annexure with Reply Statement

Annexure R1 Copy of Writ Petition No. 8528(SS) of 2009.
