

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/1351/2013

Date of Order: 20.06.2019

Between:

A. Sarath Babu, S/o. A. Powlas,
Aged about 35 years, GDSMC/MD, Katevaram BO,
Morrispet SO, under Tenali Head Office,
Tenali Postal Division, Tenali.

... Applicant

And

1. The Superintendent of Post Offices,
Tenali Division, Tenali.
2. The Director of Postal Services,
Office of Post Master General,
Vijayawada Region, Vijayawada.
3. The Chief Post Master General,
A.P. Circle, Hyderabad.
4. Union of India, represented by the Director General,
Department of Posts, New Delhi.
5. Sri Ch. Prasannanjaneya Raju,
Aged about 34 years, BPM Balijepalli BO,
In account with Vemuru SO, under Tenali Head Office.

... Respondents

Counsel for the Applicant ... Mr. K. Venkateswara Rao

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC
Mr.P.S. Ramachandra Murthy
For R-5

CORAM:

***Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

ORAL ORDER***{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}***

The applicant was appointed as Gramin Dak Sevak Mail Carrier/Mail Deliverer (for short “GDSMC/MD”) on 21.06.2005 under Tenali Head Post Office. A post of Group D fell vacant in that Head Post Office and it was un-reserved. The selection was on the basis of performance in the written test, comprising of 4 parts, conducted for that purpose. One of the conditions is that a candidate must secure 10 marks in each part. The applicant secured 71 marks in aggregate, but in one part, he secured only 8 marks. The 5th respondent was another aspirant and he secured 70 marks in aggregate, but obtained more than the minimum marks in all the parts. He was selected and appointed through the order dt. 30.10.2013. This OA is filed challenging the order selecting and appointing the 5th respondent.

2. The applicant contends that he belongs to ‘SC’ category and there exists a facility of relaxation to the extent of 2 marks in the context of minimum marks in each part and if that is complied with, he would be qualified and since his aggregate was more than that of the 5th respondent.

3. The respondents filed a detailed counter affidavit. It is stated that, once the vacancy is Un-reserved, the applicant has to compete only on the parameters stipulated therefor and he cannot avail the benefit of

relaxation meant for 'SC' candidates. Reliance is placed upon the Office Memorandum dated 11.07.2012 issued by the DOPT.

4. We heard Mr. K. Venkateswara Rao, learned counsel for the applicant; Mrs. K. Rajitha, learned Senior Standing Counsel for the respondents 1 to 4 and Mr. B. Srihari, learned proxy counsel representing Mr. P. S. Ramachandra Murthy, learned counsel for R-5.

5. It is not in dispute that the only vacancy for which selection was held was Un-reserved. The applicant, 5th respondent and various other candidates competed for that. In the written test, the applicant secured 71 marks, whereas the 5th respondent secured 70 marks in aggregate. If the aggregate were to be the only sole criterion, the applicant naturally deserved to be preferred. As observed earlier, the examination comprises of 4 parts and the rule is that, a candidate must secure minimum of 10 marks in each part. The applicant secured 8 marks in one such part. Obviously, for that reason, he was not treated as qualified.

6. It is no doubt true that the relaxation is provided in favour of the SC candidates and the minimum marks in each part are slashed to 8. That however, would be when the vacancies are reserved for SC candidates. When the selection is for an Un-reserved vacancy, the extension of benefit of relaxation in favour of SC candidates for such a vacancy would

result in differential treatment being accorded and the entire exercise becomes violative of Articles 14 & 16 of the Constitution of India.

7. Reliance is placed upon an order passed by this Tribunal in OA No.3/2013, wherein the question was as to whether the facility of relaxation of age limit for an SC candidate can be extended where the post is an Un-reserved one. Placing reliance upon the judgment of the Hon'ble Supreme Court in ***Jitender Kumar Singh & Anr Vs. State of U.P. & Ors, 2010(2) All India Services Law Journal 108***, it was held that the same is available to an SC candidate. Similar observation was made by the Hon'ble Andhra Pradesh High Court vide order dt. 21.07.2010, in WP No. 14797/2010.

8. Whatever may have been the context in which the benefit of relaxation of age limit was extended to an SC candidate at the stage of submitting application, even there, the selection was for an Un-reserved vacancy, a totally different situation emerges when it comes to the question of evaluation on the basis of the performance in the examination. When the candidates are selected on the basis of performance, the same standard is required to be applied. The facility created regarding age limit for applying cannot be extended to the evaluation of merit in the written test and thereby, bringing about different criteria for various candidates. Further, the Office Memorandum dt. 11.07.2012 issued by the DOPT does not permit of

such an approach. It was not challenged herein nor it fell for consideration in the orders referred to above.

9. Therefore, we do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 20th day of June, 2019

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