

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Writ Petition Nos.20945 and 20946 of 2015
and
M.P.Nos.1, 1 and 2 of 2015

1)The Union of India,
Rep. by the Chief Post Master General,
Chennai City Region,
Chennai-600 002.

2)The Senior Superintendent,
Department of Posts,
O/o. Senior Superintendent of Post Office,
Tambaram Division,
Chennai-600 045. Petitioners in both WPs

vs.

1)K.Jagdeesh Brabhu 1st respondent in W.P.20945/15
2)K.Saravanan 1st respondent in W.P.20946/15
3)The Central Administrative Tribunal,
Rep. by its Registrar,
Madras Bench,
Chennai-600 104. 2nd respondent in both WPs

Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the 2nd respondent and quash the orders dated 02.12.2014 in OA/310/01095/2014 and OA/310/01096/2014 respectively, as the same are unsustainable.

For Petitioner : Mr.V.P.Sengottuvel

For R1 : Mr.R.S.Anandan

COMMON ORDER

(Order of the Court was delivered by Mr.Justice S.MANIKUMAR)

Challenge in these writ petitions, is to the orders, dated 02.12.2014 made in OA/310/01095/2014 and OA/310/01096/2014, of the Central Administrative Tribunal, Chennai, by which, the Tribunal has directed the petitioners herein, to reconsider the case of the 1st respondent in both the writ petitions, for appointment to the post of Postman, under the sports quota, by taking into account the certificate issued by University of Madras and appoint them as Postmen, under the Sports Quota, as per the notification, dated 10.06.2012.

As pleadings and submissions are common, both the writ petitions were heard together and disposed of by this common order.

2.The Chief Post Master General, Union of India, Chennai City Region, Chennai, 1st petitioner herein, has issued a Notification No.PSD/400-29/2010, dated 06.06.2012, calling for the appointments of meritorious sports persons in the Department of posts, in the cadre of Postal Assistant / Sorting Assistant, Postmen and Multi Tasking Staff, for the year 2011, and unfilled vacancies for the year 2006-2010, and for Postmen and Multi Tasking Staff , in the Department of Posts, against the vacancies for the year 2009-2011.

3.A pass in Matriculation or equivalent is the educational qualification, for the post of Postman. It was further notified that attested copies of certificates for the educational qualification, proof of sports qualification in Form I, Form II, Form III and Form IV, obtained from the competent sports authorities, should be enclosed, along with the application, and duly attested sports certificate for required position/category from the competent sports authorities, should also be enclosed. 09.07.2012 has been prescribed as the last date for receipt of the applications, by the Head of the Divisions concerned. The Senior Superintendent, Department of Posts, Tambaram Division, Chennai, received 25 applications, within the said date, including the applications of the 1st respondent in both the writ petitions. According to the petitioners, in respect of Tambaram Division, following vacancies for the post of postmen were notified, under the sports quota, in Basket Ball discipline.

Pivot 1 (Men)

Defense 1 (Men)

4.The petitioners have further submitted that for the purpose of scrutinizing the applications received, and to finalise the selection of meritorious eligible sports persons, vide memo No.REP/2-2/2011/CCR/Sports Quota, dated 26.06.2012, of the Postmaster General, Chennai City Region, Chennai, a separate

selection committee consisting of a Chair person with 4 members, was constituted, for each division,, and that the Chairman of the committee of all the divisions were directed to submit a report, about the completion of scrutiny of all the applications and finalization of the list of eligible candidates.

5.It is further submitted that as per the instructions issued in letter No.PSB/400-29/09, dated 24.03.2010, of the Chief Post Master General, Tamil Nadu Circle, Chennai, vide 1, for one vacancy, the total number of candidates to be called, for fitness trial, should be in the ratio of 1:2. Therefore, among the applications received, two applications under each category, were short listed for selection of one eligible / meritorious candidate, under the sportsman quota.

6.The petitioners have further submitted that on 01.08.2012, the short listed candidates, including the 1st respondent in both the writ petitions, were called for certificate verification and fitness trial. Thereafter, reports of the committees of all divisions, as to the completion of scrutiny of the applications and finalisation of the list of selected candidates, were forwarded to the Postmaster General, Chennai City Region, for approval.

7.It is further contended that the Postmaster General, Chennai City Region, raised a query as to who is competent to issue position certificate, as production of the said certificate was prescribed as one of the requirements/conditions, under the notification, apart from production of sports certificates in Form I/II/III/IV. Hence, he referred the matter, to the Chief Postmaster General, Tamilnadu Circle, Chennai, for clarification. On reference, the Chief Postmaster General, Tamilnadu Circle, reviewed the matter and observed that since there is every likelihood of selecting the same candidate for the same position, again and again, position certificates should be issued, in consultation with the Tamil Nadu Postal Sports Board, with a view to strengthen the team of the respective sports discipline for participation in the All India Postal Tournaments. Accordingly, he has issued a clarification letter No.PSB/400-29/2012 dated 08.12.2012, stating that the authorities competent to issue position certificate, are those authorities, empowered to issue Form, I, Form II, Form III and Form IV, as the case may be, and that candidates who have not produced the position certificate obtained from the competent authority, need not be considered. In view of the above clarification letter, the Chairman of the selection committee of all the divisions, were directed to ensure that selection has been made, in the light of the above instructions of the Chief Postmaster General.

8.Pursuant to the abovesaid Letter No.PSB/400-29/2012, dated 08.12.2012, all the applications were taken up for scrutiny afresh, by the selection committee of Tambaram Division, wherein, it was found that 1st respondent in both the writ petitions, had not produced the position certificates issued by the competent authority, who had issued Form I, II, III and IV. Whereas, the position certificates submitted by them, were issued by SDAT Coach, Theni District, who is not competent to issue sports certificate, as per the Official Memorandum issued by the Ministry of Home Affairs/Grih Mantralaya, Department of Personnel and Administrative Reforms in DOPT OM No.14015/1/78-Estt(D), dated 04.08.1980, regarding appointment of meritorious sportsmen to Group C and D posts in relaxation of the procedure.

9.It is the further contention of the petitioners that in view of the non submission of the position certificates, issued by the competent authority, the application of the 1st respondent in both the writ petitions, were not considered by the selection committee of Tambaram Division, in the light of the instructions in Letter No.PSB/400-29/2012, dated 08.12.2012, issued by the Chief Postmaster General, Tamilnadu Circle. It is further submitted that in the review of selection conducted by the departmental recruitment committee, it was ascertained that no candidate could be selected, and thus, the vacancies were not filled up.

10.The petitioners have further contended that the 1st respondent in both the writ petitions, submitted individual representations on 06.11.2013, seeking to appoint them, under the sports quota. Thereafter, vide proceedings, dated 05.12.2013, of the Senior Superintendent, Department of Posts, Chennai, the 1st respondent in both the writ petitions, were informed that they were not selected for the reason that, as per the enclosure to the applications, the position certificate dated 28.06.2012 was issued by SDAT coach and not by the authority who issued the Form III certificate. Hence, the 1st respondent in both the writ petitions submitted individual representations dated 13.12.2013, to the 1st petitioners, by enclosing the certificates issued by the Madras University, confirming the genuineness of the position certificates issued by SDAT Coach. It is the case of the petitioners that as on 13.12.2013, recruitment process came to be completed and a report about the finalization of recruitment, was submitted to the department and that results were also declared. Hence, by proceedings, dated 25.02.2014, 1st respondent in both the writ petitions were informed that their request could not be considered, as they have not fulfilled the norms for selection, as per the instructions issued in Letter No.PSB/400-29/2012, dated 08.12.2012, of the Chief Postmaster General, Tamilnadu Circle.

11.It is further submitted that subsequently, a notification No.PSB/400-29/2010, dated 20.08.2014, was issued by the Chief Post Master General, Union of India, Chennai City Region, Chennai, 1st petitioner herein, for filling up the vacancies in various cadre, under the sports quota of the years 2012 and 2013, along with the unfilled vacancies of the year 2009 to 2011. In the said notification, totally 4 vacancies were notified, for Basket Ball discipline, in respect of Postmen cadre, Tambaram Division, including the two unfilled vacancies, for which, the 1st respondent in both the writ petitions claimed appointment. Aggrieved by the said notification, the 1st respondent in both the writ petitions, filed O.A.Nos.1095 and 1996 of 2014, before the Central Administrative Tribunal, Chennai, praying to set aside the order, dated 05.12.2013, bearing No.B2/DEPA/PM/SPORTS/2012, and for a direction to reconsider them, for appointment as postmen under the sports quota, taking into account the certificates, issued by the University of Madras, dated 12.12.2013, and to appoint them, under the sports quota, as notified in the notification, dated 10.06.2012. The petitioners have contested the above application, by filing a reply statement. The 1st respondent in both the writ petitions, also filed MA.Nos.653 and 654 of 2014, praying to stay the abovesaid notification. Vide order, dated 19.09.2014, the Tribunal directed the respondents/petitioners herein, to permit the applicants/1st respondent in both the writ petitions, to participate in the examination scheduled to be held on 22.09.2014. A further direction was also given that any selection pursuant to the notification, dated 20.08.2014, for the post of postmen in respect of Tambaram Division, shall be subject to the outcome of O.A.Nos.1095 and 1996 of 2014.

12.According to the petitioners, no such examination was scheduled on 22.09.2014 and the said date was fixed, as last date for receipt of the applications. As per the abovesaid interim order, the 1st respondent in both the writ petitions were permitted to attend certificate verification and fitness trial held on 07.11.2014, in respect of the vacancies under the sports quota, notified for Basket Ball discipline in Postmen cadre, Tambaram Division. After the certificate verification and fitness trial, the recruitment committee selected the candidates for 4 vacancies, for appointment as Postmen, under Basket Ball discipline in respect of Tambaram Division. However, the results were not declared, in view of the interim order, dated 19.09.2014, made in MA.Nos.653 and 654 of 2014.

13.It is the contention of the petitioners that the Tribunal without properly considering their case and without taking into account the documents filed by them, by a common order dated

02.12.2014, in OA/310/01095/2014 and OA/310/01096/2014, set aside the order dated 05.12.2013 and directed the petitioners to reconsider the 1st respondent in both the writ petitions, for appointment, as Postmen under the sports quota, as per notification dated 10.06.2012, by taking into account the certificates issued by University of Madras. Hence, the petitioner have filed this writ petition, to quash the aforesaid common order.

14.Assailing the correctness of the impugned order, Mr.V.P.Sengottuvel, learned counsel for the writ petitioners submitted that the Tribunal has failed to consider that the 1st respondent in both the writ petitions, did not produce the position certificates, as prescribed in the notification dated 10.06.2012. It is further contended that the Tribunal has failed to note that the 1st respondent in both the writ petitions had submitted Form-III certificates, for having played inter-University competitions, representing Madras University, issued by the Director of Physical Education, University of Madras, and that he is not the competent authority to issue the position certificate, as per the proceedings in DOPT OM No.14015/1/78-Estt(D) dated 04.08.1980, in which, the Dean or overall in-charge of sports of the University alone is the competent authority, to issue sport certificates, in respect of inter-university competitions tournaments.

15.Learned counsel for the petitioners has further contended that the 1st respondent in both the writ petitions, had submitted only a letter from the SDAT Coach, Theni District, indicating their position of play, along with their applications and that the said position certificate was not issued by the same authority, who had issued Form-III Certificate. Thus, he submitted that the 1st respondent in both the writ petitions are not eligible for appointment.

16.It is the further contention of the learned counsel for the petitioners that the genuineness certificates issued by the Director of Physical Education, University of Madras, are ante-dated and that the representations of the 1st respondent in both the writ petitions, seeking appointments, enclosing the certificates issued by the University of Madras, confirming the genuineness of the certificates issued by the SDAT coach, Theni District, were made, much after the recruitment process was over and after publication of the results, and thus, they cannot be considered.

17.Learned counsel for the petitioners also contended that as per the recruitment procedure, documents/certificates submitted by the 1st respondent in both the writ petitions, along with the applications, alone can be taken into consideration, thus the

impugned order of the Tribunal is contrary to the recruitment procedure. A contention has also been made that the Tribunal has dismissed similar applications in O.A.Nos.OA/310/01078/2014 and O.A/310/01079/2014, by order, dated 02.03.2015, on the ground that the applicants therein, had not produced the position certificate, as per the conditions mentioned in the notification dated 06.06.2012. For the abovesaid reasons, the learned counsel for the petitioners prayed for dismissal of the writ petitions.

Heard the learned counsel for the parties and perused the materials available on record.

18. Material on record discloses that the Chief Post Master General, Union of India, Chennai City Region, Chennai, 1st petitioner herein, has issued a Notification No.PSD/400-29/2010, dated 06.06.2012, calling for appointment of meritorious sports persons in the Department of posts, in the cadre of Postal Assistant / Sorting Assistant, Postmen and Multi Tasking Staff, for the year 2011, and unfilled vacancies, for the year 2006-2010, and for Postmen and Multi Tasking Staff in the Department of Posts against the vacancies for the year 2009-2011. The respondents also issued a memo for sports quota, for the said posts. Pursuant to the abovesaid notification, the 1st respondent in both the writ petitions had applied for the same, along with the degree certificates and sports certificates and that they were selected for the post of Postman, under the sports quota in Tambaram Division, for the vacancies of the year 2010-2011. However, they were not provided with any appointment order. Hence, they made individual representations dated 06.11.2013, to the petitioners, to appoint them under the sports quota.

19. Material on record further discloses that by order, dated 05.12.2013, of the of the Senior Superintendent, Department of Posts, Chennai, the 1st respondent in both the writ petitions, were informed that they were not eligible for selection to the abovesaid post, for the reason that the position certificate, dated 28.06.2012, produced by the 1st respondent in both the writ petitions were issued by the SDAT Coach and not by the authority, who had issued Form III Certificate. Before the Central Administrative Tribunal, it was the contention of the 1st respondent in both the writ petitions that their candidature was rejected, despite the fact that University of Madras, has confirmed that the SDAT Coach, who had issued the genuineness certificate, is an authorised coach of the University of Madras, and thus, the rejection was arbitrary and illegal. Before the Central Administrative Tribunal, the petitioners herein, have raised the averments made in these writ petitions.

20. Adverting to the rival submissions, the Central Administrative Tribunal at paragraphs 7 to 11, held as follows:-

'7. During the hearing learned counsel for the respondents submitted that the position certificate issued by the competent authority should be enclosed along with the application. But the applicants at the first instance did not produce the same. By the time they produce the said certificates issued by the University of Madras, the selection process and submission of report to higher authorities was over and the vacancies earmarked for sports quota was unfilled.

8. On perusal it is seen that the applicants have again produced the certificates issued by the University of Madras confirming the genuineness of the certificates issued by the SDAT Coach, Theni and requested for appointments and it is also clear from the reply statement of the respondents that the vacancies earmarked for sports quota are still vacant. Hence, we feel it appropriate to issue directions to the respondents to reconsider the applicants for appointment to the post of Postman under the sports quota by taking into account the certificate issued by the University of Madras and appoint the applicant as Postman under the Sports Quota.

9. For the abovesaid circumstances, we are of the opinion that the impugned order is liable to be set aside.

10. Accordingly, the impugned order No. B2/DEPA/PM/SPORTS/2012, dated 05.12.2013 of the 2nd respondent is set aside. The respondents are directed to reconsider the applicants for appointment to the post of Postman under the sports quota by taking into account the certificate issued by the University of Madras and appoint the applicants as Postman under Sports Quota as per the notification dated 10.06.2012. This exercise shall be completed within a period of one month, from the date of receipt of a copy of this order.

11. With the above observations, the OAs are allowed on the above lines. However, there shall be no order as to costs.'

21. Indisputably, in the notification for the post of Postman, the educational qualification was prescribed as a pass in Matriculation or equivalent and attested copies of certificates for the educational qualification, and proof of sports qualification in Form I, Form II, Form III and Form IV, from the competent sports authorities, should be enclosed along with the application and that duly attested sports certificate for required position/category, from the competent sports authorities, should also be enclosed. While scrutinizing the reports of the selection committee of all

divisions, the Postmaster General, Chennai City Region, had raised a query about the competent authority for issuance of position certificate. Hence, he had referred the matter to the Chief Postmaster General, Tamilnadu Circle, Chennai, for clarification. On reference, the Chief Postmaster General, Tamilnadu Circle, has issued a clarification letter No.PSB/400-29/2012, dated 08.12.2012, which is extracted hereunder:-

'This is regarding selection of meritorious Sports person against the Direct Recruitment Quota of vacancies in Postal assistant/Postman/MTS cadre, earmarked for sports Quota in the Newspapers on 10.06.2012. In this connection, kindly refer to your D.O. letter No.REP/2-2/2011/CCR/Sports Quota-vol.II dated 02.11.2012 wherein clarification was sought as to whether production of position certificate which is not prescribed in DOP&T instruction is a must for deciding the selection in addition to the Form I, II, III & IV. If so the authority competent to issue such a certificate, and whether the minutes recommending selection of those who have not produced position certificate but meritorious as per Form II, III & IV as the case may be, can be approved.

In this regard, I am directed to intimate that the required position among various team events was approved by the Chief PMG and President of TN postal Sports Board in the Sports Board meeting held on 21.02.2012 to strengthen the team of the respective sports discipline for participation in the All India Postal tournaments due to the fact that there is every likelihood of selecting the candidates for the same position again and again. Since the candidates under sports quota are selected based on the certificate produced by them subject to suitability of the candidates, position certificate from the competent authority was insisted upon in the notification dated on 10.06.2012 issued by the Circle office.

Since 'Suitability' clause has also been prescribed by the DOP&T as one of the selection criteria for selection of meritorious sports candidates for appointment in Group C and Group D cadre vide its O.M.No.14015/1/76-Estt.(D), dated 4-8-1980 as amended by Dept of Per.& Trg.O.M.No.15012/3/84-Estt.(D), dated 12-11-1987 prescription of position certificate will ipso facto come under 'suitability' prescribed by the DOP&T.

The authorities competent to issue the position certificate are those authorities who are empowered to issue Form I, Form II, Form III and Form IV as the case may be, even though this has not been specifically

mentioned in the existing orders of the DOP&T because candidates are selected based on their certificates under sports quota as per the priorities prescribed by the DOP&T O.M.No.14015/1/766-Estt(D) dated 4-8-1980 and as amended from time to time.

Hence, I am directed to clarify that those candidates who have not produced the position certificate obtained from the competent authority as per the notification issued by the Circle office need not be considered for appointment even though such cases have been recommended by the DSC for appointment. In other words, there should not be any deviation and appointment should be made strictly in conformity with the notification issued by the C.O.''

22.Though the learned counsel for the petitioners contended that the position certificate issued by the competent authority, should be enclosed along with the application, but the 1st respondent in both the writ petitions, at the first instance, did not produce the same, and when they produced the position certificates issued by the competent authority, the selection process and submission of report to higher authorities, were over, and thus the request of the 1st respondent in both the writ petitions, could not be considered, this Court is not inclined to accept the same. From the impugned order, it could be seen that the 1st respondent in both the writ petitions have enclosed the position certificates dated 28.06.2012, along with their applications. However, by order dated 05.12.2013, their candidature was rejected, on the grounds that position certificates produced by them, were issued by SDAT Coach and not by the authority, who had issued Form III Certificate.

23.Upon perusal of the clarification letter No.PSB/400-29/2012 dated 08.12.2012, it could be deduced that only in the subsequent clarification letter, it has been made it clear that ''the authorities competent to issue the position certificate are those authorities who are empowered to issue Form I, Form II, Form III and Form IV as the case may be, even though this has not been specifically mentioned in the then existing orders of the DOP&T because the candidates have to be selected based on their certificates under sports quota as per the priorities prescribed by DOP&T O.M.No.14015/1/766-Estt(D) dated 4-8-1980 and as amended from time to time''. It is to be noted that the said clarification letter has been issued at the end of selection process, and that too on a query raised by the Postmaster General, Chennai City Region, as to who is the competent authority, for issuance of position certificate. In view of the above clarification letter,

the selection committee of all divisions, were directed to ensure that the selection has been made in the light of the above instructions of the Chief Postmaster General, and thereafter, in the review conducted by the departmental recruitment committee, it was ascertained that no candidate could be selected and thus, the vacancies were not filled up.

24.Be that as it may, the 1st respondent in both the writ petitions have produced the certificates, issued by the University confirming the genuineness of the certificates, issued by the SDAT Coach, Theni and requested for appointments. The vacancies earmarked for sports quota, have to be filled up. Hence, the Central Administrative Tribunal has rightly issued directions, to the petitioners, to reconsider the 1st respondent in both the writ petitions for appointment to the post of Postman under the sports quota, by taking into account the certificate issued by the University of Madras, and appoint them as Postmen, under the sports quota, as per the notification dated 10.06.2012.

25.In view of the above discussion, we do not find any infirmity to interfere with the impugned common order, dated 02.12.2014, made in OA/310/01095/2014 and OA/310/01096/2014 respectively. Accordingly, the writ petitions are dismissed. No costs. Consequently, M.P.Nos.1, 1 and 2 of 2015 are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

NBI

To

1)The Chief Post Master General,
Union of India,
Chennai City Region,
Chennai-600 002.

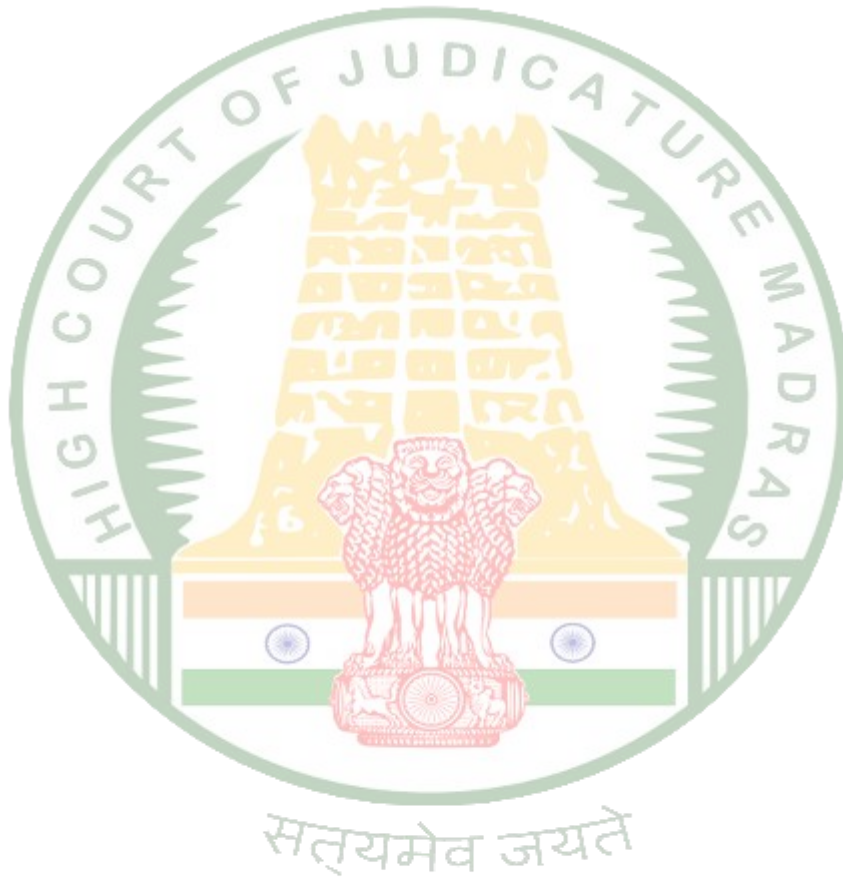
2)The Senior Superintendent,
Department of Posts,
O/o. Senior Superintendent of Post Office,
Tambaram Division,
Chennai-600 045.

3)The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai-600 104.

1 CC TO Mr.V.P. Sengottuvel, Advocate, Sr. 24889

W.P.No.20945 and 20946 of 2015

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