

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 14540 of 2016

DATE OF DECISION : 25.07.2016

Karambir

.... PETITIONER

Versus

The Central Administrative Tribunal and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Deepak Sonak, Advocate,
for the petitioner.

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RAMENDRA JAIN , J.

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, challenging the order dated 01.09.2015 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal'); and praying for issuance of a writ in the nature of mandamus directing the respondents to consider his case for appointment to the post of Postman, being a successful candidate in the written examination held in terms of notification dated 10.12.2012.

2. The petitioner is working as Gramin Dak Sewak (GDS) since April, 1998, with respondents No.2 to 4. Vide letter dated 10.12.2012 (Annexure A-1), respondent No.4 issued a notification inviting applications from Multi Tasking Staff (MTS) and GDS for one vacant post of Postman in the Division of Sonipat. The post was to be filled up as per the latest Rules,

namely Department of Posts (Postman and Mail Guard) Recruitment Rules, 2010 (hereinafter referred to as '2010 Rules'), which provide that 50% of the total posts were to be filled by promotion on the basis of Limited Departmental Competitive Examination from amongst MTS and 50% by direct recruitment on the basis of competitive examination from amongst the GDS. Hence, the only vacancy in Sonipat Division was to be filled by direct recruitment on the basis of competitive examination limited to GDS. However, the applications were invited from MTS and GDS and it was made clear that the eligible MTS/GDS may apply even though there is no vacancy in the Division as their applications may be considered for neighbouring Division/Unit. Accordingly, the petitioner being GDS applied for the post. He appeared in the test on 31.03.2013 and was placed at Serial No.4 in the merit list (Annexure A-4). At the end of the merit list, it was mentioned that "No MTS candidate appeared in Postman Examination 2013." Three candidates above the petitioner in the merit list did not join, as on enquiry by the petitioner he came to know that they had joined elsewhere. Thereafter, the petitioner approached respondents No.2 to 4 seeking appointment to the post of Postman, but his claim was not accepted. Aggrieved by the action of respondents No.2 to 4, the petitioner approached the respondent No.1 – Tribunal by filing Original Application under Section 19 of the Administrative Tribunals Act, 1985, which has been dismissed vide the impugned order dated 01.09.2015.

3. Learned counsel for the petitioner submitted that respondent No.1 – Tribunal has not properly appreciated the facts of this case and

committed a grave error while dismissing the OA of the petitioner. He argued that though there was only one vacancy of Postman, but since applications for the post in question were invited both from eligible MTS and GDS candidates, therefore, claim of the petitioner for appointment to the post being successful candidate, cannot be rejected on the ground that there was no post for GDS candidates. Learned counsel further argued that as per the revised Recruitment Rules, 2010, if for a post of Postman, no MTS candidate is available in the recruiting Division, the post can be filled up from amongst MTS of the neighbouring Division on the basis of Limited Departmental Competitive Examination, failing which by direct recruitment on the basis of the said examination from amongst GDS. Thus, in the instant case, since no MTS candidate appeared in the examination, therefore, the petitioner, who is working as GDS in the recruiting Division, and has been placed at serial No.4 of the merit list, is entitled for appointment to the post, as the candidates above the petitioner in the merit list are not available for appointment.

4. We have considered the arguments advanced by learned counsel for the petitioner and have gone through the impugned order.

5. The argument of learned counsel for the petitioner that once applications for the post were invited both from eligible MTS and GDS candidates, then claim of the petitioner for appointment cannot be rejected on the ground that there was no post for GDS candidates, is without any substance. There is a categoric mention in the letter dated 10.12.2012 inviting applications that the eligible MTS/GDS may apply even though

there is no vacancy in the Division as their application may be considered for neighbouring division/unit. Thus, the petitioner could have been considered only for the neighbouring divisions/units, if any vacancy was there. In the written statement filed by respondents No.2 to 4 before respondent No.1 Tribunal, it has been specifically mentioned that result of the examination in question was reviewed by the Circle Office, Ambala, in view of the provision in the 2010 Rules to offer unfilled vacancies of MTS to the MTS of neighbouring Division and unfilled vacancies of GDS to the GDS of neighbouring division. It was found that no vacancy in direct quota remain unfilled which could be offered to the GDS of the neighbouring Division. Thus, the revised Recruitment Rules, 2010, are of no help to the petitioner. We do not find any illegality or perversity in the impugned order passed by respondent No.1 Tribunal.

6. Petition is, accordingly, dismissed.

**(RAMENDRA JAIN)
JUDGE**

July 25, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No