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W.P.No.2741 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**  
**AND**  
**THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

**W.P.No.2741 of 2021**

R.Sumathi

... Petitioner

***Vs.***

1.Union of India,  
Rep. by its Secretary,  
Department of Posts,  
Ministry of Communication & IT,  
Dak Bhavan,  
Sansad Marg,  
New Delhi – 110 001.

2.The Chief Postmaster General,  
Tamil Nadu Circle,  
Anna Salai, Chennai – 600 002.

3.Superintendent of Posts Offices,  
Kumbakonam Division,  
Kumbakonam – 612 001.

4.Central Administrative Tribunal,  
Madras Bench,  
Chennai – 600 104.  
Rep. by its Registrar.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India,



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praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 4th respondent Tribunal made in OA No. 310 / 00064 / 2017 dated 02.06.2020 in so far as the petitioner is concerned and quash the same, consequent to direct the respondents 1 to 3 to appoint the petitioner as Postal Assistant against clear vacant post in the 2nd respondent Circle at par with the candidates appointed for the vacancies of the years 2013 - 2014 with all consequential benefits including monetary benefits.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.M.karthikeyan,  
Senior Panel Counsel (for R1-3)  
Tribunal (R4)

### **ORDER**

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order under challenge has been passed by the 4th respondent Tribunal in OA No. 310 / 00064 / 2017 dated 02.06.2020.

2. The facts in nutshell are that the recruitment notification for direct recruitment to the post of Postal Assistants/Sorting Assistants were called for by the Postal Department in proceedings dated 29.06.2016. The notification was issued to conduct competitive examination for selection and appointment to the post of Postal Assistants for Division wise vacancies.

3. Perusal of the recruitment notification reveals that Division wise vacancy positions were notified enabling Gramin Dak Sevak (GDS) to submit



their respective applications to participate in the process of recruitment.

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4. Pattern of examinations are notified. Accordingly, two papers are prescribed namely Aptitude Test (Paper-I) and Computer Skill Test (Paper-II).

5. Paragraph 8(ii) of the notification stipulates that “ All the Regional PmsG/Divisional Superintendents are requested to kindly call for the applications from the eligible GDS in the format prescribed for the purpose. In Divisions, where there is no vacancy, applications need not be called for”

6. One of the condition stipulated in Sub-Clause 5 is that “All the divisions heads are directed for giving wide publicity to this Circular for inviting the Applications from Gramin Dak Sevaks”

7. Perusal of the recruitment notification reveals that Division wise vacancy positions were notified and respective Division Heads were directed to give publicity of the Circular inviting applications from GDS. Thus, Division wise selections were conducted as per the recruitment notification. It is further made clear that if there is no vacancy in any Division, applications need not be called for. The above condition would clarify that the notification itself was



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directed to be issued by the Division heads if vacancies are available in their respective Divisions inviting applications from the candidates serving as GDS.

8. The petitioner submitted her application and participated in the process of selection. Admittedly, the petitioner secured marks in Aptitude Test (Paper-I) as detailed hereinunder,

|               |   |                    |
|---------------|---|--------------------|
| <i>Part-A</i> | - | <i>18 marks</i>    |
| <i>Part-B</i> | - | <i>13 marks</i>    |
| <i>Part-C</i> | - | <i>9 marks and</i> |
| <i>Part-D</i> | - | <i>19 marks</i>    |

8. The petitioner belongs to OBC community. The qualifying marks for OBC in each part in Paper-I is 9 marks. For Unreserved category candidates, it is 10 marks. Since the petitioner belongs to OBC category, she claimed that she must be declared as eligible to participate in Computer Skill Test (Paper-II). However, the respondents rejected the candidature of the petitioner on the ground that one vacancy of the Postal Assistant is notified for Kumbakonam division and the said vacancy is to be filled from amongst the successful candidates under the Unreserved category. Since the petitioner is not qualified for selection under the Unreserved category, she was not permitted to participate in the Computer Skill test (Paper-II).



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9. The rejection of the candidature of the petitioner resulted in institution of Original Application before the Central Administrative Tribunal (CAT). Pursuant to the interim order of the Tribunal, the petitioner was permitted to participate in the Computer Skill Test (Paper-II). She secured 91.40 out of 100 in Paper-II. The Original Application was dismissed by the Tribunal, on the ground that the petitioner was not qualified to participate in the Computer Skill Test (Paper-II), since she was not eligible under the Unreserved category, she became ineligible for selection.

10. Mr.R.Malaichamy, learned counsel appearing on behalf of the petitioner would mainly contend that, during the pendency of the Original Application, the petitioner challenged the very recruitment notification itself on the ground that the vacancies for all the Divisions ought to be taken into consideration for filling up the post of Postal Assistants/Sorting Assistants. Division wise selection made by the respondents 2 and 3 are improper and in violation of the Recruitment Rules. Recruitment Rules contemplates common selection. While so, Division wise notification *per se* is untenable. That apart, the petitioner was eligible for selection under the OBC category. Therefore, the interim order of the Tribunal was in consonance with the Service Rules. The



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Tribunal failed to consider the contention that the Division wise selection was improper.

11. Mr.M.Karthikeyan, the learned Senior Panel Counsel appearing for the respondents 1 to 3 would oppose by stating that the notification was challenged after granting of the interim order by the Central Administrative Tribunal and prayer amendment is after thought. Therefore, the Tribunal has rightly rejected the application. Admittedly, the petitioner belongs to OBC category. She secured 9 marks. However, the qualifying marks for Unreserved category is 10. Thus, the petitioner was unsuccessful in Aptitude Test (Paper-I) and ineligible to participate in Computer Skill Test (Paper-II). Mere participation of the petitioner in Paper II Test, pursuant to the interim order of the Tribunal would not confer any right on her to seek any selection or appointment.

12. We have considered the submissions made by the respective learned counsels appearing on behalf of the parties to the lis. At the first instance, the challenge made by the petitioner questioning the validity of the Recruitment Rules after securing an interim order from the Tribunal cannot be entertained. A candidate who participated in the process of selection by



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accepting the recruitment conditions, cannot turn around and challenge the same after becoming unsuccessful in the examination. Thus, the Tribunal has rightly considered that the amended relief sought for by the petitioner deserves no merit consideration.

13. The recruitment notification dated 29.06.2016 is unambiguous. The holistic reading of the recruitment notification would reveal that the Division wise vacancy positions were notified and further the Division heads were directed to issue separate publications in their respective Divisions inviting applications from the eligible candidates for selection and appointment to the post of Postal Assistants. It is clarified that, where there is no vacancy, applications need not be called for by the Department Heads. Thus, Division wise vacancies were notified and applications were called for by the Divisional heads by issuing publications. It is not in dispute that one post of Postal Assistant was notified in Kumbakonam Division and the said post is allotted for Unreserved category. Therefore, in Kumbakonam Division, the selection was conducted for one post of Postal Assistant under Unreserved category.

14. It is not in dispute that the petitioner is not eligible under the Unreserved category, since she secured 9 marks. The eligible marks for



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Unreserved category is 10 marks. She was permitted to participate in the Computer Skill Test (Paper II), only based on the interim order of the Tribunal.

The litigants' participation by virtue of an interim order of the Court would not confer any right on the candidate to seek selection or appointment. Such interim orders are always subject to the final orders to be passed by the Courts. The Tribunal considered these issues and made a finding that the petitioner accepted the conditions stipulated in the recruitment notification and participated. Further, the petitioner failed in Paper-I, as she was not qualified under the Unreserved category. Her participation in Paper-II Test itself is untenable, since it was only based on the interim order of the Tribunal.

15. The learned counsel for the petitioner finally would submit that one question was found to be erroneous. However, the petitioner has not challenged the said issues during the relevant point of time, and after her participation, she cannot raise the said ground, which would upset the entire selection process. Therefore, we are not inclined to entertain the said submission.

16. In view of the above discussions, we do not find any infirmity in the order passed by the Central Administrative Tribunal. Accordingly, the order



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passed by the 4th respondent/Tribunal made in OA No. 310 / 00064 / 2017

dated 02.06.2020 is confirmed. Consequently, the Writ Petition is dismissed. No

costs. The connected Miscellaneous Petition, if any, is closed.

**[S.M.S., J.]**

**[M.J.R., J.]**

**06.11.2024**

Index: Yes/No

Speaking/Non-speaking order

*gd*



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To

- 1.The Secretary,  
Union of India,  
Department of Posts,  
Ministry of Communication & IT,  
Dak Bhavan,  
Sansad Marg,  
New Delhi – 110 001.
- 2.The Chief Postmaster General,  
Tamil Nadu Circle,  
Anna Salai, Chennai – 600 002.
- 3.Superintendent of Posts Offices,  
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