



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन  
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No.5513/1021/2015

Dated 29.03.2017

**In the matter of:**

Shri Rajeev R.  
Postal Assistant, R 90  
Parassala Post Office,  
Trivandrum South Postal Division,  
Trivandrum District, Kerala-695502  
Email – [rajeevjeev@gmail.com](mailto:rajeevjeev@gmail.com)

.... Complainant No.1

Shri Venugopalan, O.R., R 91  
Sub Postmaster,  
Calicut Air Post Office, Manjeri Postal Division,  
Malappuram District, Kerala-673647  
Email – [olikkaravenu@gmail.com](mailto:olikkaravenu@gmail.com)

.... Complainant No.2

**Versus**

The Chief Postmaster General, R 92  
Office of the Chief Postmaster General,  
Kerala Postal Circle,  
Thiruvananthapuram-695033

.... Respondent

**Dates of Hearing: 17.08.2016, 16.11.2016 and 29.11.2016**

**Present:**

**17.08.2016**

1. Shri P. Rajesh on behalf of Shri R. Rajeev, Complainant No.1
2. Shri Venugopalan O.R., Complainant No.2
3. Shri P. Susselan, Asstt. Postmaster General (Staff & Vig.) on behalf of Respondent

**16.11.2016**

1. Complainants were exempted from appearing in the hearing
2. Shri P. Suseelan, Asstt. Postmaster General (APMG), on behalf of Respondent

**29.11.2016**

1. Complainants were exempted from appearing in the hearing
2. Shri P. Suseelan, Asstt. Postmaster General (APMG), on behalf of Respondent

**ORDER**

The complainant No.1, Postal Assistant with 50% locomotor disability and complainant No.2, Sub Postmaster with 40% locomotor disability filed joint complaint under

the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding not considering them for promotion to the post of Postmaster Grade-1.

2. The complainants submitted that they appeared in the Limited Departmental Competitive Examination (LDCE) conducted by the Department of Posts for promotion to the cadre of Postmaster Grade-1 on 30.06.2013 from amongst the Postal Assistants with 5 years and above regular service. In Kerala Postal Circle there were total of 87 vacancies for the post of Postmaster Grade-1 cadre, out of which 3 candidates under persons with disabilities quota were entitled to be given appointment as per the Act or as per DoP&T's O. M.No.36035/3/2004-Estt.(Res) dated 29.12.2005. The complainants also referred to the Order dated 01.06.2015 passed by this Court in a similar case No.2166/1024/2014 filed by Shri Rajesh P Vs The Chief Postmaster General, Kerala Postal Circle. During the hearing in the above referred case, the respondent had submitted that the Department had taken up the matter with the Postal Directorate vide letter dated 24.03.2015 and submitted that the three candidates qualified for the post of Postmaster Grade-1 could be promoted to Postmaster cadre under PH category. They submitted that Rajesh P who was at serial No.1 in the qualified list was promoted, but they were left out of promotion.

3. The matter was taken up with the respondent vide letter dated 01.01.2016 to submit comments along with details of vacancies filled through promotion in Group C and D from 01.01.1996 and the certificate issued by the Liaison Officer certifying that the reservation roster was maintained as per the instruction issued by DoP&T's letter dated 29.12.2005.

4. The respondent in their reply vide letter No.ST/3-1/PM Grade-1 dated 02.02.2016 submitted that in compliance with the Order of this Court passed in Case No.2166/1024/2014, Shri P. Rajesh (OH), a person with 60% locomotor disability was promoted to the cadre of Postmaster Grade-1. It was erroneously reported vide their letter of even number dated 24.03.2015 that the three candidates, i.e. Shri P. Rajesh and both the complainants in the instant case, could be promoted to the post of Postmaster Grade-1 under PH category and that mistake was happened due to lack of clarity initially existed at the time of introduction of Postmaster Grade Scheme. In fact, the total vacancies in PH category for Postmaster Grade-1 examination held on 30.06.2013 worked out to be 03 with split-up as VH-01, HH-01, OH-01 whereas the above two complainants belonged to OH category. As per Para 16 of DoP&T's OM dated 29.12.2005, the vacancy could not be filled up due to non-availability of suitable person and should have been forwarded as a 'backlog reserved vacancy' to the subsequent recruitment year. Therefore, the 02 unfilled vacancies were carried forward to the subsequent years and the complainants could not be considered for posting against the vacancies meant for VH and HH.

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5. The complainants in their rejoinder dated 10.02.2016 submitted that the respondent erroneously considered para 16 of DoP&T's OM dated 29.12.2005 instead of taking para 18(b) of the said OM since the recruitment to the Postmaster Grade-1 was done by conducting a Limited Departmental Competitive Examination (LDCE) which was not a case of promotion by selection. Para 18(b) of the said OM provides that "In posts filled by promotion by non-selection, the eligible candidates with disabilities shall be considered for promotion against the reserved vacancies and in case no eligible candidate of the appropriate category of disability is available, the vacancy can be exchanged with other categories of disabilities identified for it. If it is not possible to fill up the post by reservation even by exchange, the reservation shall be carried forward for upto three subsequent recruitment years whereafter it shall lapse." Since the Roster Point No.1 was already filled up, the Points 34 and 67 were to be filled based on the marks obtained by the complainants as such there could not be lack of any clarity.

6. Upon considering the reply dated 02.02.2016 of the respondent and the rejoinder dated 10.02.2016 of the complainant, the matter was scheduled for hearing on 17.08.2016.

7. During the hearing on 17.08.2016, the complainants reiterated their written submissions and added that the three available vacancies for the post of Postmaster Grade-1 cadre under PH quota were wrongly filled up by the Respondent, which was against the legitimate right of persons with disabilities as per the Act and subsequent DoP&T's orders. They further submitted that the examination for recruitment for Postmaster Grade-1 was conducted in 2014 and both of them were once again qualified under PH category. Unfortunately, in the year 2014 also, the PH quota was not seen as filled. Due to the lack of clarity from the side of the respondent, there occurred considerable delay in their appointments for Postmaster Grade-1 cadre as they were duly qualified in the Departmental Examination conducted on 30.06.2013 and 20.07.2014. They prayed for directing the respondent to comply with the scheme of reservation for persons with disabilities and appoint them in Postmaster Grade-1 cadre under PH quota.

8. The representative of the respondent submitted a copy of the written submissions that the total number of vacancies in PH category for the Postmaster Grade-1 examination held on 30.06.2013 was 03 which was further split up as VH-01, HH-01 and OH-01 at roster points 1, 34 and 67 respectively. These two complainants fall under the category of OH. The lone OH vacancy for 2013 had already been filled up by promoting one Shri Rajesh P (OH category) on the basis of his merit position. Therefore, the averment of the complainants that they were not given promotion to the cadre of Postmaster Grade-1 even after being declared as qualified was not correct. At the time of notifying the vacancies for Limited Departmental Competitive Examination 2013 for Postmaster Grade-1, there was lack of clarity in view of the fact that the scheme of

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Postmaster Grade-1 was a newly introduced one. He further submitted that Para 18 of DoP&T O.M. dated 29.12.2005 is in respect to inter-se exchange and carry forward of reservation in case of promotion by selection and promotion by non-selection. The relief sought for by the complainants w.r.t. inter-se exchange was not sustainable as per the extant rules and guidelines governing the field. The provisions of the Act are fully complied with by Kerala Circle.

9. After hearing the parties and perusal of the record, the respondent was directed to submit the following within a week:-

- (i) The date of creating the Cadre of Postmaster Grade-1.
- (ii) Vacancies identified for Cadre.
- (iii) How did the respondent reach the figure 87 while vacancies advertised in the year 2013 in Kerala Postal Circle.
- (iv) Cut of marks of last selected candidate in vertical category.
- (v) Whether relaxation was provided to employees with disabilities.
- (vi) Copy of the Reservation Roster in respect of Group 'C' and 'D' with effect from 01.01.1996 along with Certificate of Liaison Officer certifying that the Reservation Roster has been prepared as per DoP&T's O.M. dated 29.12.2005.
- (vii) DoP&T vide its O.M. No.36035/8/89-Estt.(SCT) dated 20.11.1989 introduced reservation in promotion for Group 'C' and 'D' posts. Whether the benefit of reservation in promotion was provided to the employees with disabilities.

10. The case was scheduled for hearing on 16.11.2016 at 1500 Hrs. The complainants were exempted from appearing in the hearing. However, they were free to attend the hearing.

11. During the hearing on 16.11.2016, the representative of the respondent submitted that in compliance of the direction of this Court vide Record of Proceedings (for hearing held on 17.08.2016) dated 05.10.2016, they had already submitted the point-wise reply vide their letter dated 08.11.2016 which was received in this Office on 15.11.2016. The representative of the respondent reiterated that the provisions of the Act are fully observed by Kerala Postal Circle. One Mr. Rajesh P. had already been posted under this concession upon the disability condition (OH) as Postmaster Grade-1 at Palaghat. Rest of the two vacancies are earmarked for VH and HH categories respectively for which the candidates were not available. The vacancies were forwarded to the next recruitment year as per the existing rules.

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12. The Court observed that since the reply has been received a day before the hearing, it required some time for thorough examination. Hence, the case was adjourned to 29.11.2016 at 1500 Hrs. The representative of the respondent was directed to appear

on the said date along with relevant record. The complainants were exempted from appearing in the hearing. However, they were free to attend the hearing on the said date and time.

13. The respondent vide reply dated 08.11.2016 submitted as under:-

- (i) The cadre of Postmaster Grade-1 created on 22.11.2010 vide Directorate letter No.4-17/2008-SPB II dated 22.11.2010.
- (ii) 87 vacancies were identified for the cadre.
- (iii) At the time of initialization of the cadre of Postmaster Grade-1 in 2010, willingness was called for from amongst the Lower Selection Grade (LSG) officials who wanted to switch over to Postmaster Grade-1. The Post Offices with heavy workload in Kerala Circle were identified to be manned by Postmaster Grade-1. Thereafter, the remaining identified Postmaster Grade-1 Offices were taken into account for calculation of vacancies for the said examination (to be filled from amongst the Postal Assistants having 5 years of service on the basis of competitive examination). In the year 2013 the total vacancies of Postmaster Grade-1 = 125, No. of posts filled at the time of initialisation = 38, Remaining vacancies filled through competitive examination = 87 (UR 64, SC 12, ST 8, PWD 3).
- (iv) Cut off marks of last selected candidate in Postmaster Grade-1 category were – UR - 224, SC – 154, ST – 158.
- (v) Relaxation was provided to the employees with disabilities in Postmaster Grade-1. The exam was held on 30.06.2013 for the identified 03 posts with split up VH-1, HH-1 and OH-1 at roster points 1, 34 and 67 respectively. Subsequently, in compliance of this Court's Order dated 01.06.2015 in case No.2166/1024/2014, the loan OH vacancy by declaring the result of Shri Rajesh P was filled up in the light of DoP&T's OM No.36035/8/2003-Estt (Res) dated 26.04.2006.
- (vi) Reservation Roster was prepared as per DoP&T's OM dated 29.12.2005 which was received in January 2006. Prior to the said OM, centralised roster was not maintained. The vacancies in Group 'C' and Group 'D' posts were notified from the Postal/RMs divisions and division-wise recruitments were made. The respondent submitted the centralised roster maintained from the year 2005 as per DoP&T's instructions with duly attested copies of 100 point reservation earmarked for direct recruitment in respect of persons with disabilities.
- (vii) As regards benefit of reservation in promotion as per DoP&T's OM No.36035/8/89-Estt (SCT) dated 20.11.1989, a special recruitment drive was conducted in 2003 to fill up 08 backlog vacancies in the cadre of

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Postal Assistant/Sorting Assistant vide letter No.Rectt/4-3/2002 dated 07.11.2003. As per the direction of Hon'ble CAT Ernakulam Bench in OA 713/2007, PH vacancies filled during the year 1996 to 2005 were reviewed and special recruitment drive to the cadre of Postman was conducted during 2009 and all the 08 qualified candidates were promoted under direct recruitment quota of vacancies announced. Selection was done vide letter No.Rectt/122/PH/Review dated 13.06.2011.

14. During the hearing on 29.11.2016, the representative of the respondent submitted their written reply that the averment of the complainants that they qualified in the examination and they were not given promotion to the cadre of Postmaster Grade-1 was not correct as the promotion on the basis of merit in the LDCE would be subject to the availability of vacancies in that particular category. The contention of the complainants for inter-se exchange under Para 18(b) of DoP&T's OM dated 29.12.2005 is not tenable as it is with respect to inter-se exchange and carry forward of reservation in case of promotion by selection and promotion by non-selection. Under selection method, promotions are to be made by "selection-cum-seniority" and "selection by merit" for which DPC is to be constituted for ensuring suitability of the officials' assessment of work and conduct of the officials etc. Under non-selection method, DPC need not make a comparative assessment of record of officials and it should categorise the officials as "fit" or "unfit" for promotion on the basis of the assessment of their record of service. Para 18 of the DoP&T's OM dated 29.12.2005 is silent about promotion by LDCE and not squarely applicable to the instant case.

15. In the light of the facts mentioned above, this Court observed that Limited Departmental Competitive Examination (LDCE) was conducted by the respondent for promotion to the cadre of Postmaster Grade-1 on 30.06.2013 to fill up 03 reserved vacancies one each earmarked for OH, HH and VI persons with disabilities. Three candidates namely, Shri Rajesh P and the complainants, all persons with locomotor disability (OH) qualified the exam and 01 vacancy earmarked for OH category was filled up with Shri Rajesh P. Accordingly, the roster point No.1 was filled up. Rest of the 02 vacancies which were earmarked for HH and VI categories at the roster point 34 and 67 could not be filled up with the complainants as they belong to OH category and the backlog vacancies were carried forward to the next year. Therefore, the claim of the complainants to promote them to the post of Postmaster Grade-1 is not justified in the light of para 16 of DoP&T's OM dated 29.12.2005 and no direction can be given to the respondent.

16. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner for