

1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF AUGUST, 2023

PRESENT

THE HON'BLE MR. JUSTICE P.S. DINESH KUMAR

AND

THE HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

WRIT PETITION NO.23815 OF 2021

C/W

WRIT PETITION NO.20500 OF 2021

WRIT PETITION NO.24205 OF 2021 (S-CAT)

IN W.P No.23815 OF 2021

BETWEEN:

1. UNION OF INDIA
REPRESENTED BY SECRETARY
DEPT. OF POST, DAK BHAVAN
NEW DELHI-110 001.
2. THE CHIEF POST MASTER GENERAL
KARNATAKA CIRCLE
PALACE ROAD
BENGALURU-560 001.
3. THE GENERAL MANAGER (PA & F)
KARNATAKA CIRCLE
GPO BUILDING
AMBEDKAR VEEDHI
BENGALURU-560 001.
4. THE DEPUTY DIRECTOR GENERAL
(POSTAL ACCOUNTS AND FINANCE)
POSTAL ACCOUNTS WING

DAK BHAVAN
NEW DELHI-110 001.

...PETITIONERS

(BY SHRI. B. PRAMOD, CGC)

AND:

Ms. MANASA HEGDE
D/O SRI. SUBRAY NARAYAN HEGDE
AGED ABOUT 34 YEARS
WORKING AS POSTAL ASSISTANT
(GROUP LEADER PLI)
O/O. SUPERINTENDENT OF POSTS
KARWAR DIVISION
KARWAR-581 301.
R/AT C/O. R.M. NAIK
NO.21, "SHAINIVAS"
BEHIND PWD QUARTERS
KOULKARWADA, KAIKINI ROAD
KARWAR-581 301.

...RESPONDENT

(BY SHRI. A.R. HOLLA, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE ORDER DATED 10.08.2021 (ANNEXURE-A) PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENGALURU BENCH, BENGALURU IN OA. No.170/01198/2019 AS ILLEGAL, ARBITRARY, CONTRARY TO THE RECRUITMENT RULES AND ETC.

IN W.P No.20500 OF 2021

BETWEEN:

1. UNION OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS
POSTAL ACCOUNTS WING
DAK BHAVAN
NEW DELHI-110 001.
REP. BY ITS SECRETARY AND
DIRECTOR GENERAL OF POST
DEPT OF POSTS.

3

2. SENIOR DEPUTY DIRECTOR GENERAL (PA & F)
DEPT. OF POSTS
OFFICE OF DIRECTOR GENERAL OF POSTS
POSTAL ACCOUNTS WING
DAK BHAVAN, SANSAD MARG
NEW DELHI-100 001.
3. ASSISTANT DIRECTOR GENERAL OF POSTS
(PA ADMIN), DEPT. OF POSTS
POSTAL ACCOUNTS WING
DAK BHAVAN, SANSAD MARG
NEW DELHI-110 001.
4. THE CHIEF POST MASTER GENERAL
KARNATAKA CIRCLE
PALACE ROAD
BENGALURU-560 001.
5. THE GENERAL MANAGER (PA & F)
KARNATAKA CIRCLE
GPO BUILDING
AMBEDKAR VEEDHI
BENGALURU-560 001.
6. THE SENIOR SUPERINTENDENT
OF POST OFFICES
KOLAR DIVISION
KOLAR-563 102.

...PETITIONERS

(BY SHRI. B. PRAMOD, CGC)

AND:

KUM. SARITHA K.S
D/O SRI. SRINIVAS K.N
AGED ABOUT 28 YEARS
KUMBARA HOME, I MAIN
II CROSS, SONNASHETTYHALLI
CHINTAMANI TALUK-563 125.
CHIKKABALLAPURA DISTRICT

...RESPONDENT

(BY SHRI. M.R. KRISHNA MURTHY, ADVOCATE FOR
SHRI. S.F. GAUTAMCHAND, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE ORDER DATED 12.05.2021 (ANNEXURE-A) PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENGALURU BENCH, BENGALURU IN OA. No. 170/1102/2019 AS ILLEGAL AND ARBITRARY AND SET ASIDE IT AND ETC.

IN W.P No. 24205 OF 2021

BETWEEN:

1. UNION OF INDIA
REPRESENTED BY SECRETARY
DEPT. OF POST, DAK BHAVAN
NEW DELHI-110 001.
 2. THE CHIEF POST MASTER GENERAL
KARNATAKA CIRCLE
PALACE ROAD
BENGALURU-560 001.
 3. THE GENERAL MANAGER (PA & F)
KARNATAKA CIRCLE
GPO BUILDING
AMBEDKAR VEEDHI
BENGALURU-560 001.
 4. THE DEPUTY DIRECTOR GENERAL
(POSTAL ACCOUNTS AND FINANCE)
POSTAL ACCOUNTS WING
DAK BHAVAN
NEW DELHI-110 001.
- ...PETITIONERS

(BY SHRI. B. PRAMOD, CGC)

AND:

SRI. B.R. HEMANTH KUMAR
S/O RAMANNA
AGED ABOUT 29 YEARS
WORKING AS POSTAL ASSISTANT
(GROUP LEADER PLI)
O/O SENIOR SUPERINTENDET OF
POST OFFICES

BANGALORE SOUTH DN
BANGALORE-560 041.
R/AT AKKAMAHADEVI NILAYA
NO.97/1, 5TH MAIN ROAD
MEENAKSHINAGAR
BASAWESHWARANAGAR POST
BANGALORE-560 079.

...RESPONDENT

(BY SHRI. A.R. HOLLA, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE ORDER DATED 10.08.2021 (ANNEXURE-A) PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENGALURU BENCH, BENGALURU IN OA. No. 170/01199/2019 AS ILLEGAL, CONTRARY RECRUITMENT RULES, ARBITRARY AND SET ASIDE IT AND ETC.

THESE W.Ps., HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 03.08.2023, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, **P.S. DINESH KUMAR, J.**, PRONOUNCED THE FOLLOWING:-

ORDER

In these writ petitions by the Union of India, common question of law is involved. Hence, they are considered simultaneously and disposed of by this common order.

2. Heard Shri. B.Pramod, Learned CGC for the petitioners and Shri.A.R.Holla, learned Advocate for respondents in W.P. No.24205/2021 & W.P. No.23815/2021 and Shri. M.R. Krishnamurthy, learned Advocate for respondent in W.P. No.20500/2021.

6

3. The point for consideration is, applicability of Note in Column 11 of the Indian Post and Telecommunications Accounts and Finance Service Group 'B' (Accounts Officers & Assistant Accounts Officers) Recruitment Rules, 2018.

4. Respondents in these writ petitions have joined postal department as 'Postal Assistants'.

5. Respondent in W.P. No.20500/2021 (K.S. Saritha) joined in Kolar Division on 15.04.2011.

6. Respondent in W.P. No.23815/2021 (Manasa Hegde) joined in Karwar Division on 19.05.2010.

7. Respondent in W.P. No.24205/2021 (B.R. Hemanth Kumar) joined in Bangalore South Division on 21.01.2011.

They were promoted as Accountants.

8. The Ministry of Communication notified Recruitment Rules, 2018 titled as Indian P & T Accounts and Finance Services (Group-B) for the posts of Accounts Officer

and Assistant Accounts Officer. As per the said Rules, officials working in level – IV with 9 years of regular service are entitled to apply for the post of Assistant Accounts Officer. In response to Examination Notification dated 19.04.2018 for limited Department competitive examination for recruitment to the post of Assistant Accounts Officer for the year 2018-19, respondents submitted their application. Respondents' names were not found in the merit list. According to the respondents, their juniors and other candidates who had secured lesser marks were selected. Feeling aggrieved, they approached the CAT¹. By the impugned order, the CAT has allowed the applications and directed the petitioners to place them in the merit list at the appropriate place based on the marks obtained by the respective candidates in the qualifying examination and to consider their cases for promotion to the post of AAO.

¹ Central Administrative Tribunal

9. Shri. B.Pramod, learned CGC submitted that:

- the CAT has erred in holding that respondents are eligible for consideration of their candidature based on the Note contained in column 11 of the Rules;
- respondents, Saritha works in Kolar Division, Manasa Hegde works in Karwar Division and Hemanth Kumar works in Bangalore South Division;
- No candidate who is junior to the respondents in these writ petitions has been considered for appointment in the respective Divisions. Therefore, the Note in column 11 of the Rules has no application.

With these main submissions he sought for allowing the writ petitions.

10. Shri. A. R. Holla, for respondents in two cases and Shri. M.R. Krishnamurthy, for respondent in W.P. No.20500/2021 submitted that:

- the seniority of all respondents are maintained in one common list;
- the CAT has rightly noticed in para 13 of the impugned order that one Shivakumara Swamy, who was junior to respondents in Karnataka Circle was allowed to appear in the examination and so recording, the Tribunal has rejected the contention urged by the Union of India that the respondents were not eligible as per Recruitment Rules for promotion.

11. In substance, the arguments advanced by the learned Advocate for the respondents is that there is only one seniority list and their juniors have been permitted to appear in the examination. Therefore, contention of the petitioners that respondents are ineligible is untenable and the writ petitions are liable to be dismissed.

12. We have carefully considered rival contentions and perused the records.

13. Undisputed facts of the case are, respondents in these three writ petitions had total service as follows:

Sl. No.	Name	Level	No. of years of service	Division
1	Saritha	IV	7 years 1 month	
2.	B.R. Hemanth Kumar	IV	7 years 4 months	
3.	Manasa Hegde	IV	7 years 11 months	

14. It was urged by Shri. B. Pramod that for a candidate for consideration of his case for promotion, he is required to have 9 years of regular service in level – IV. According to him, the note in column 11 can be pressed into service only in such cases where a candidate who is junior would have passed the examination and likely to be promoted. The concession of two years is provided to ensure that when a candidate and his junior both would have passed the examination and the senior would not be eligible for promotion on the ground that he had not completed 9 years of service, is accommodated. The note in column 11 reads as follows:

(10)	(11)
By promotion failing which by deputation failing both by direct recruitment	"Promotion: Departmental candidates who have passed the Subordinate Accounts Service Examination or equivalent examination conducted by Department of Posts and Telecommunications or Competent Authority specified by the Department 1. Senior Accountant or Junior Accountant of Department of Posts and Department of Telecommunications with three years or Six years regular service in level 6 in the pay matrix (Rs.35,400-1,12,400) and in level 5 in the pay matrix (Rs.29,200-92,300) respectively. 2. All other officials of the Department of Posts or Department of Telecommunications in Group 'C' cadre possessing a bachelor's degree from a recognized University or Institute with the following regular qualifying service: (i) in level-1 with fourteen years regular service, or (ii) in level-2 with thirteen years regular service, or (iii) in level-3 with eleven years regular service, or (iv) in level-4 with nine years regular service, or (v) in level-5 with seven years regular service, or (vi) in level-6 with four years regular service. Note: <u>Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying or eligibility service by more than of such qualifying or eligibility service, or two years. Whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying or eligibility service.</u> (Emphasis Supplied)

12

15. To a query made by this Court as to any person who is junior to the respondents in the respective divisions, have been considered and promoted, Shri. Pramod submitted that no person junior to the respondents in their respective divisions has been promoted. This submission is not controverted by the learned Advocates for the respondents.

16. The above extracted portion of the Rule shows that the candidates in Level-IV should have completed 9 years of regular service. The respondents herein have less than 8 years of service. The contingency of giving reduction of two years would arise only in such cases where a candidate junior to the petitioners, in their respective division is promoted.

17. In view of the undisputed fact that no candidate who is junior to the respondents has been promoted in the respective divisions, there was no need to press the 'note' into service and give concession of two years in the case of the respondents herein.

18. In view of above discussion, these petitions merits consideration. Hence, the following:

ORDER

- i) Writ petitions are ***allowed***.
- ii) Order dated August 10, 2021 in O.A.No. 170/01198/2019 passed by CAT is set-aside.
- iii) Order dated May 12, 2021 in O.A.No. 170/1102/2019 passed by CAT is set-aside
- iv) Order dated August 10, 2021 in O.A.No. 170/01199/2019 passed by CAT is set-aside.
- v) O.As No. 170/01198/2019, 170/1102/2019 and 170/01199/2019 are dismissed.

No Costs

**Sd/-
JUDGE**

**Sd/-
JUDGE**