

(2025) 11 CAT CK 0060

Central Administrative Tribunal**Case No:** Original Application No. 180, 00194 Of 2023

Swaraj Nair

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision: Nov. 28, 2025**Hon'ble Judges:** K. Haripal, Member J; V.Rama Mathew, Member A**Bench:** Division Bench**Advocate:** Leela. R, Sheela Devi**Final Decision:** Disposed Of

Judgement

V.Rama Mathew, Member A

1. Heard both sides in extenso. Briefly the facts are as under - the applicant is presently working as Assistant Superintendent of Post Offices (HQ), Vadakara. He submits that he is one among the 1921 aspirants who appeared for the Postal Services Group 'B' cadre Limited Departmental Competitive Examination for the vacancy year 2017-18, 2018, 2019 and 2020 conducted on 29.11.2020 by the department. It is submitted that as per the principles of PS Group B Recruitment Rules, 1993 and Hon'ble Supreme Court direction in SLP No.24725/2017 dated 10.10.2017 to suitable adjustment, the 102 posts filled in excess in the DPC quota must be adjusted against the further vacancies of DPC quota only and not against the further vacancies of LDCE quota. However, the respondents department adjusted 102 already promoted officers against 77 vacancies ie., 75% of vacancies meant for DPC quota and remaining 25 vacancies, ie., 25% of vacancies meant for LDCE quota for recruitment year 2017-18 thereby making LDCE quota vacancies as nil. Aggrieved by the notification of 'nil' vacancy for the year 2017, the Service Association had submitted representation to the department on 14.12.2020 itself to which the department assured that the notification itself provides that vacancy position is subject to changes and therefore, were waiting for a positive outcome. However, this has not happened. Hence, this O.A has been filed.

2. The O.A seeks to set aside Annexure A-10 order dated 28.03.2023 with direction to reassess the vacancies of DPC 2023 quota in true spirit of Hon'ble Supreme Court verdict dated

10.10.2017 by suitably adjusting 25 posts in DPC quota and to direct the respondents to restore 25 PS Group B LDC Exam quota vacancies for the year 2017-18 which stands erroneously subsumed in adjustment of excess filled DPC quota appointees, to promote the applicant and similarly placed next 24 meritorious IP line and clerical line candidates with all attendant benefits from combined merit list of PS Group B LDC Exam 2020 results dated 01.06.2022.

3. The applicant and similarly affected 25 meritorious candidates are listed in the combined waiting list of 25, which is produced as Annexure A-1. According to the PS Group B Recruitment Rules, 1993, there are two modes of promotions for the eligible officials to the cadre of PS Group B. One is promotion based on seniority-cum-fitness through Departmental Promotional Committee and another is promotion based on merit in the LDCE. The PS Group B Recruitment Rules, 1993 prescribes the quota of 75% for DPC and 25% for LDCE mode of recruitment. In the 25% LDCE quota the 19% is further earmarked for the Inspector Posts line officers and remaining 6% quota is earmarked for the clerical line officials working in Post Offices and Divisional Offices. The PS Group B Recruitment Rules, 1993 is produced as Annexure A-3.

4. The Hon'ble Supreme Court in CWP No.5893/1997 decided on 18.12.1998 in the matter of State of Punjab & Ors. vs. Dr.R.N.Bhatnagar has held that *"the quota of percentage of departmental promotee and direct recruits has to be worked out on the basis of the roster points taking into consideration vacancies that fall due at a given point of time. There is no question of filling up the vacancy created by retirement of a direct recruit by direct recruit or vacancy created by a promotee by a promotee."* The Apex Court has further held that decision rendered by Constitution Bench in R.K.Sabarwal vs. State of Punjab & Ors., in connection with Article 16(4) and the operation of roster for achieving the reservation of post for Scheduled Castes, Scheduled Tribes and Other Backward Classes as per the scheme of reservation, cannot be pressed in service for the scheme of method of appointment. Consequently, DoP&T issued O.M dated 19.01.2007 to all Ministries/Departments thereby conveying its decision to rescind its earlier instructions and to amend the column for 'Method of Recruitment' as whether by direct recruitment or by promotion or by deputation/absorption and percentage of vacancies to be filled by various methods. This is produced as Annexure A-4. In so far as the PS Group B cadre it has a sanctioned strength of 866 posts and hence in the earlier post based method (which now stands rescinded), 75% of 866 posts means 649 and therefore PS Group B posts filled up through DPC seniority quota should not exceed from 649 posts at any point of time and accordingly, 25% of 866 posts means 217 and therefore PS Group B posts filled up through LDC Exam Quota should not exceed 217 posts at any point of time. However, now under vacancy based method (as prescribed vide Annexure A-4) in a particular year, if there are 200 vacancies then while assessing the 75% and 25% quota of vacancies to be filled up through DPC and LDCE, 150 posts shall be required to be filled up through DPC and 50 posts shall be required to be filled up through LDCE.

5. The DoP&T vide Annexure A-4 mandated all departments of the Government of India to cause modifications into the Recruitment Rules according to the revised policy of Government of India notified vide Annexure A-3. However, the respondent department had not revised the Recruitment Rules for PS Group B cadre and continued to fill the PS Group B cadre through the post based

vacancy as indicated in previous paragraph.

6. This led to excess recruitment in the DPC quota. This was challenged by the applicants to LDCE who approached the Hyderabad Bench of this Tribunal by filing O.A.No.554/2013. A copy of the order in the said O.A passed by the Hyderabad Bench has been produced as Annexure A-5 wherein it has been held that the impugned letter dated 17.07.2012 was illegal, arbitrary and in violation of the law laid down by the Hon'ble Apex Court and also in violation of DoP&T O.M dated 19.01.2007 and the same was liable to be quashed and set aside and accordingly the same was quashed and set aside. Consequently, the respondents are directed to recalculate the vacancies in terms of the law of the Apex Court on the issue of quota under Recruitment Rules and in terms of DoP&T O.M dated 19.01.2007. The respondents are further directed to consider the case of the applicants in the remaining unfilled vacancies as they are already qualified in the LDCE held on 03.06.2012 with all consequential benefits. The same was challenged by the department before the Hon'ble High Court of Hyderabad in W.P.No.25931/2015 which was dismissed by the Hon'ble High Court vide order dated 05.12.2016, a copy of which is produced as Annexure A-6. The operative part of the said order reads as follow -

“23. On first principles, we do not know whether the application of the principles laid down in Dr. R.N. Bhatnagar would tilt the balance in favour of one or the other streams and eventually destroy the object of the quota-rota rule. A time may come when the entire P.S. Group-B Services may either be occupied only by promotees (75%) or by persons selected under the 19% quota earmarked for Inspector of Posts through a Limited Departmental Competitive Examination or by persons coming under the 6% quota for Clerical line staff. The object of reserving a major portion of the cadre strength for promotion on the basis of merit cum seniority and leaving the remaining posts for recruitment out of turn through a Limited Departmental Competitive Examination is actually to strike a balance between the aspirations of the existing employees and ensuring efficiency of administration by recognising talent. The principles laid down in Dr. R.N. Bhatnagar followed in All India Federation of Central Excise, in our humble view, may strike at the very root of the balance that is sought to be struck between the interests of the employees and the need for improving efficiency in administration. If the number of persons promoted under one stream far exceeds the number of persons appointed through the other stream, this balance is obliterated. The theory that once promoted/appointed (through different streams), their birth marks get obliterated, may be applicable to the promoted/appointed individuals. But the same cannot apply to the vacancies or posts. We must always bear in mind, the distinction between a post and a person occupying the post. The birth mark is on persons and not on posts. Therefore, a time may come when the principles enunciated in Dr. R.N. Bhatnagar may be revisited by the Apex court. But as on date, the law laid down by the Supreme Court in Dr. R.N. Bhatnagar holds the field and hence our hands are tied and we are unable to interfere with the order of the Tribunal. Therefore, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.”

7. The department had taken up the matter before the Hon'ble Supreme Court in SLP No.24725/2017 and the same was dismissed by the Hon'ble Supreme Court vide order dated 10.10.2017 upholding the decision of the Hon'ble High Court. However, it is clarified that

promotions which has already been given may not be disturbed but the respondents will be entitled to be considered against any further vacancies by making suitable adjustment in future in accordance with impugned judgment, a copy of the order is produced as Annexure A-7. Accordingly, the Department of Posts vide Annexure A-8 and Annexure A-9 has recalculated the vacancy position following the directions in the order of the Hon'ble Supreme Court for the years on which DPC had been conducted until 2016-17.

8. In the reply statement, it has been declared that 102 excess promotion in the DPC cadre in the PS Group B posts during the said years. However, the vacancy for the year 2017 has been declared as 'nil' stating that the vacancies that were announced for the PS Group B Examination on 18.12.2016 (for subsequent years) were recalculated in accordance with the DoP&T O.M dated 19.01.2007 after adjusting the additional vacancies that arose due to the exercise mentioned above, ie., 102 vacancies which may have occurred during the vacancy year 2017-2018 have already been taken into account while recalculation of vacancies due to the exercise done in compliance of Hon'ble Supreme Court and hence there were no vacancies left to be filled up for vacancy year 2017-2018. It has been vehemently argued that this would be the correct reading of the directions of the Hon'ble Supreme Court. Therefore, the claim of the applicant is hypothetical, baseless and devoid of any merits. It is also stated that when there is no vacancy left to be filled in 2017-2018 by any mode of recruitment (either through DPC or LDCE), there is no scope to identify and indicate the vacancy position of quota for LDCE or DPC for the vacancy year 2017-2018.

9. If we go back to the directions of the Hon'ble Supreme Court it is stated therein that the respondents will be entitled to be considered against any further vacancies by making suitable adjustment in future in accordance with the impugned judgment ie., the order in O.A.No.554/2013 wherein it had been directed that in accordance with the directions of the Hon'ble Supreme Court in Dr.R.N.Bhatnagar the 25% quota intended for LDCE would be based on vacancy and not post based. By adjusting the entire vacancies which have arisen in the year 2017-2018 in the DPC quota, the Department is clearly in violation of the order without any quota being indicated. Therefore, of the 102 excess vacancies which arose under the DPC quota, they will be adjusted in the quota of 75% of the subsequent years and the LDCE candidates will be promoted against the quota of 25% in the appropriate ratio of 19% and 6% for the Inspector Posts line officers and clerical line officials respectively. The same will be done by revising the promotion year of the DPC candidates promoted against those vacancy years. Ordered accordingly. Resultantly, we strike down Annexure A-10 dated 28.03.2023. The respondents shall comply with these directions within a period of three months time from the date of receipt of a copy of this order.

10. The O.A is disposed of accordingly. In the light of the order in the O.A, M.A.No.180/440/2023 is closed. No order as to costs.

(Dated this the 28th day of November, 2025)