

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9141 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 25008 OF 2012]

M.ELANGO VAN

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. The appellant is aggrieved since he is not granted the promotion in respect of 25% quota, which according to the appellant, is solely based on seniority.

3. Sh. Ajit Kumar Sinha, learned senior counsel appearing for the Union of India, submits that even if it is seniority channel also for the 50% direct recruitment, the incumbent concerned should not have crossed the age as on the cut-off date. We find it difficult to appreciate the submission made by the learned senior counsel.

4. As far as promotion based on seniority is concerned, there cannot be any cut-off date. We may refer to the rule as extracted in the counter affidavit filed by the respondents as far as promotions are concerned :-

"i. 25% of the vacancies of Postman shall be filled up from amongst ED Agents with a minimum of 15 years service on the basis of their seniority failing which by ED Agents (now designated as GDS) on the basis of Departmental exam"

5. After the amendment of the rule on 30.01.1995, 25% of the vacancies of Postman are to be filled up from amongst the extra-departmental Agents with a minimum of 15 years of service, on the basis of their seniority only. In case the Department fails to get sufficient number of candidates, then those vacancies are to be granted to the direct recruits on the basis of the examination, in which case the cut-off date is applicable.

6. The learned senior counsel further points out that in any case, there were seniors above the appellant. The learned counsel for the appellant submits that there were no seniors. Once we have clarified the rule position that the 25% vacancies are to be filled up only on the basis of seniority without reference to any cut-off date, and in case the appellant is senior enough to be considered in

respect of 25% of the vacancies, his case shall be considered for promotion and appropriate action in this regard shall be taken within a period of two months from the date of production of a copy of this Judgment.

7. With the above observations and directions, the appeal is disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
July 17, 2017.