

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 16411 of 2023**

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THE UNION OF INDIA & ORS.

Versus

CHIRAG S/O HASHMUKHRAI NANDLAL BHATT

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Appearance:

MR SHUSHIL R SHUKLA(5603) for the Petitioner(s) No. 1,2,3

MR ANAND B GOGIA(5849) for the Respondent(s) No. 1

MS KAJAL L KALWANI(6623) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA
and
HONOURABLE MR.JUSTICE J. L. ODEDRA

Date : 16/03/2026

JUDGMENT

(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. The Petitioner had applied for the post of Postal Sorting Assistant, which required that he possess the educational qualification of a pass in 10+2 with English as a compulsory subject. The application of the respondent was rejected on the ground that the mark sheet that he had produced indicated that he had passed 10+2 without English as a subject. It was noticed that the applicant had passed English by taking one additional subject. It was, therefore, contended that there was a misrepresentation of fact by the respondent.



2. Being aggrieved by this rejection, the respondent approached the Central Administrative Tribunal (CAT). The CAT on consideration of the entire matter, came to the conclusion that a similar contention of the Union had been repelled in an earlier round of litigation in respect of similarly placed applicants and the same was accepted by the CAT and furthermore the order passed by the CAT had also been confirmed by the Division Bench of this Court in SCA No.10463 of 2015 and connected matters.
3. Consequently, the CAT came to the conclusion that the rejection of the respondent's claim was incorrect, and it proceeded to quash the order of rejection and directed the Union to provide the respondent with an order of appointment.
4. Being aggrieved by the said order, the Union is in appeal by way of this writ petition.
5. The Union seeks to contend that there was a misrepresentation of fact which was indisputable since the mark sheet produced by the respondent clearly indicated that he had not passed 10+2 with English as a compulsory subject. Furthermore, it is strenuously contended that the applicant had approached the CAT only after similarly



situated applicants had succeeded and he was therefore a fence sitter and would not be entitled for any relief.

6. At the outset, it is to be stated here that the claim of the Union that the respondent was ineligible on the merits, i.e. he did not have 10+2 qualification with English cannot be accepted in light of the earlier round of litigation which has been concluded by the Division Bench of this Court in SCA No.10463 of 2015.
7. As far as the second argument is concerned that the respondent was a fence sitter, it is not in dispute that the respondent is, in fact, a physically handicapped candidate and having regard to this particular fact the principle of a fence sitter being applied *stricto sensu*, would not be appropriate.
8. Judicial notice can be taken of the fact that it is the legislative policy of the nation that people with physical disabilities are to be encouraged and reservations are also provided. The post in question being that of a Postal Sorting Assistant would be ideal post to accommodate people, who suffer from disabilities. Keeping this in mind, the mere fact that the applicant approached the CAT with some delay cannot be a ground to repel his claim.



9. It may also be pertinent to state that the CAT had exercised its discretion and had condoned the delay in filing the application and this order condoning the delay was not challenged by the Union and had therefore become final. Thus, the question of delay cannot be pressed into service by the Union.
10. In this view of the matter, there is not merit in this writ petition and the same, is therefore, dismissed.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

SUDHIR