

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 189 of 2017

Present: **Hon'ble Mr. Gokul Chandra Pati, Member (A)**
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Sri Manas Kumar Sahoo, aged about 23 years, Son of Sri Madhab Sahoo, permanent resident of Vill/Post. Kusupur, PS.Gop. Dist-Puri, PIN-753110.

.....Applicant.

VERSUS

1. Union of India, represented through the Director General(Posts), Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Chief Postmaster General, Odisha Circle, P.M.G. Square, Bhubaneswar, Dist-Khurda-751001.
3. Superintendent of Post Offices, Mayurbhanj, At/PO-Baripada, Dist-Mayurbhanj.
4. Inspector of Post Offices, Baridpada East Sub- Division, At/PO-Baripada, Dist-Mayurbhanj.

.....Respondents.

For the applicant : Mr. S. K. Ojha, counsel

For the respondents: Mr. B. Swain, counsel

Heard & reserved on : 22.11.2019

Order on : 07.01.2020

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The applicant by filing this OA, has prayed for the following reliefs under section 19 of the Administrative Tribunals Act, 1985:-

- (i) *To admit this OA;*
- (ii) *To quash the office order issued under the Memo No.A/CAT-2016, dated 26.04.2016(Annexure-A/4) holding the same is illegal and outcome of ill motive.*
- (iii) *To direct the Respondent No.2 to call for the selection file and take a final decision after due consideration;*
- (iv) *To direct the Respondent No.4 not to take any vindictive action cancelling the selection;*
- (v) *And/or pass any other order/orders as deemed fit and proper.*

2. The dispute in this case relates to the decision of the respondents not to proceed with the selection for the post of Gramin Dak Sevak (in short GDS) under the Department of Post on the ground that the same has been cancelled by the authorities. The notification dated 10.10.2014 (Annexure-A/1) was for

selection for the post of GDS Mail peon, Baripada-Balasore Mail Line under Baripada Head Post Office. It is alleged in the OA that although all the process was completed for the said selection, but the respondent no.4 did not declare the result in spite of instructions from the higher authorities. The applicant submitted a representation dated 13.7.2015 (Annexure-A/2) to the respondent no. 4 requesting finalization of the process. When no action was taken, the applicant approached the Tribunal in OA No. 61/2016 which was disposed of vide order dated 5.2.2016 (Annexure-A/3) directing the respondent no. 4 to take a decision in the matter within three months.

3. It is further averred in the OA that the respondent no. 4 disposed of the applicant's representation by his order dated 26.4.2016 (Annexure-A/4 of the OA) stating that the selection process was not yet over as the "genuineness of the certificates issued by the authority has not been established". It is stated in the OA that the respondent no. 4 has delayed the matter so as to avoid finalizing the selection in question. It is further stated that action of the respondent no.4 is depriving him of his right to be considered in terms of the judgment of Hon'ble Apex Court in the case of R.S. Mittal vs. Union of India reported in (1995) 1 SCC 444 and A.P. Aggarwal vs. Government of National Capital Territory of Delhi & Anr. AIR 2000 SC 205. The applicant has also referred to the judgment of Hon'ble High Court of Orissa in the case of Sarojakanta Mohapatra & Ors. vs. State of Odisha & Ors. reported in 2015 (1) OLR 367.

4. Counter filed by the respondents stated that since the competent authority is not satisfied about the genuineness of the mark sheet of Prathama examination submitted by the applicant, his selection could not be declared. It is stated that in reply to the letter of the respondents about genuineness of the mark sheet, concerned examination authority for Prathama examination replied that the details were not clear (Annexure-R/2). After a few days, another letter dated 26.2.2015 (Annexure-R/3) verifying the genuineness of the applicant's certificate. The respondent no.4 issued another letter dated 16.3.2015 for genuineness of the mark sheet and in reply, the letter dated 8.4.2015 (Annexure-R/4) was received enclosing the mark sheet with the same mark but with a different signature of the applicant. It is also stated that the respondent no. 4 addressed another letter to the Examination Centre i.e. Mahatma Gandhi Hindi Vidyapitha, Brahmapura, Banki, Cuttack (referred in short as the MGKV) for verification of the genuineness of the mark sheet, but no reply was received. A letter dated 27.5.2015 (Annexure-R/5) was received from the Asst. Superintendent of Posts (in charge), Cuttack stating that the Headmaster of MGKV "was reluctant to share with the School Records for

perusal/verification.” It is, therefore, stated that the respondent no. 4 was not satisfied about the genuineness of the certificate/mark sheet submitted by the applicant.

5. Prior to filing of the Counter, the respondents had furnished a copy of the letter dated 25.4.2017 of the respondent no. 3 addressed to the respondents’ counsel, stating about different letters received from the authority for Prathama examination. It is also stated that as per the letter dated 30.1.2015 (Annexure-5 to the letter dated 25.4.2017), the system of selection of GDS has been changed for which the case of the applicant under the old system cannot be considered. In reply to such instructions of the respondent no.3, the applicant has filed a reply countering the reasons furnished for not going ahead with the selection in question. It is stated by the applicant that he had signed in Hindi on the copy of the mark sheet with the institution at the time of receiving the original mark sheet and he has signed in English on the copy furnished along with his application form for the post in question. Hence, it is argued that there is no discrepancy in the mark sheet as alleged by the respondents. Regarding the letter dated 30.1.2015, it is stated by the applicant that the letter does not specify that the revised procedure will apply to ongoing selection, which will be stopped after issue of such instructions.

6. No Rejoinder has been filed by the applicant. Heard learned counsel for the applicant and the respondents and considered the pleadings on record. The short issue for decision in this case is whether the reasons furnished by the respondents in the Counter for not declaring the result of the applicant for the selection in question are acceptable.

7. The contentions of the respondents in the Counter that the letters received from Hindi Sahitya Sammelan, Allahabad on 9.2.2015 and 26.2.2015 regarding Prathama examination of the applicant, are different. How two letters can be issued in reply to one letter sent from the respondent no. 4 is not clear. Though the respondents have not furnished the copy of the letter sent to Hindi Sahitya Sammelan, Allahabad, the contention that there is some doubt about the genuineness of the certificates of the applicant because of different letters received from Hindi Sahitya Sammelan, Allahabad, cannot be said to be unjustified.

8. The ground is taken by the respondent no. 3 that after issue of the circular dated 30.1.2015 (Annexure-5 of the letter dated 25.4.2017), the selection process for the GDSs has been changed. Such ground cannot be accepted since the said circular did not provide for cancellation of the existing selection process. There is nothing on record to show that the respondent no.4 had in

fact cancelled the selection process in question by issuing an order or a notification for such cancellation. Without cancellation of the selection process, the action of the respondents not to declare the result of the selection process as per the notification dated 10.10.2014 (Annexure-A/1), which was initiated prior to change in the system of selection for the post of GDS, cannot be justified.

9. The applicant's counsel has cited the order of this Tribunal dated 25.9.2017 in OA No. 38/2017, in which the selection process for the post of GDS could not be completed till 30.6.2015. A letter was received from the respondent no. 1 to say that if the vacancy notified prior to 31.3.2015 had not been filled up by 30.6.2015, then such notification is to be cancelled. Accordingly, the selection process was cancelled. The representation filed by the applicant in OA No. 38/2017 was rejected and such rejection order was challenged in the said OA. In the present OA, the respondents have not rejected the case of the applicant on the ground of cancellation of the selection process on account of the letter/circular received from the respondent no.1. The reason for not declaring the applicant's result in the present OA is due to non-receipt of unambiguous report from Hindi Sahitya Sammelan, Allahabad, for which the respondent No.4 was not satisfied about the genuineness of the certificates furnished by the applicant. Hence, the cited case is factually distinguishable. Similarly, in the judgment of the Tribunal dated 24.5.2018 in OA No. 174/2017, the issue pertained to applicability of the circular of the respondent no. 1 on the revised recruitment procedure and for the same reasons as discussed for the OA No. 38/2017, the cited judgment will be of no assistance to the applicant's case.

10. In view of the discussions above and taking into account the fact that the letters received from Hindi Sahitya Sammelan, Allahabad about genuineness of the applicant's certificate and mark sheet for Prathama Examination were different without mentioning any reason, the matter is remitted to the respondent no. 3 for reconsideration of the applicant's case for selection in question. The respondent no. 3 is directed to write again to Hindi Sahitya Sammelan, Allahabad to confirm about the correctness of the information given in their letters dated 26.2.2015 and 8.4.2015 within one month, copies of which are to be enclosed to Hindi Sahitya Sammelan, Allahabad and if no reply is received, the letters dated 26.2.2015 and 8.4.2015 would be presumed to be correct. A copy of the above letter to be issued to Hindi Sahitya Sammelan, Allahabad should also be sent to the counterpart of the respondent no. 3 in Allahabad with copy to the CPMG of Uttar Pradesh, with request to contact Hindi Sahitya Sammelan, Allahabad for obtaining the reply and sending the

same to the respondent no. 3 within the time. After receipt of the reply, confirming the genuineness of the certificate/mark sheet of the applicant in Prathama Examination, the respondent No.3 will be required to declare the applicant's result if he is successful as per the terms of the notification dated 10.10.2014 (Annexure A/1). In case no reply of the above letter is received, then the respondent no. 3 will take action in accordance with the notification dated 10.10.2014, presuming the letters dated 26.2.2015 and 8.4.2015 of Hindi Sahitya Sammelan, Allahabad to be correct and declare the result of the selection if the applicant is successful in the selection as per the notification dated 10.10.2014 (Annexure A/1). The respondents will be at liberty not to declare the result of the selection in question and cancel the same if the applicant is not successful in the said selection as per the rules or his mark sheet/certificate for Prathama Examination is reported to be not genuine. The respondent no. 3 is to complete the process as stated above and communicate the result of above reconsideration by issuing a speaking order to the applicant in modification to the order dated 26.4.2016 (Annexure-A/4) within four months from the date of receipt of a copy of this order.

11. The OA stands allowed to the extent as above. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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