

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00895/2016

Date of Order : 08.11.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Kanhaiya Prasad Singh, s/o Sri Dhanwant Kumar Singh, resident of Mohalla-Chhoti Rajwati, Pipalpanti Road, District- Munger.

.... Applicant.

By Advocate: - Mr. S.K. Bariar

-Versus-

1. The Union of India through the Secretary cum Director General, Ministry of Communications and IT, Department of Post, Dak Bhawan, Sansad Marg.
2. Director (DE), Ministry of Communications and IT, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
3. The Assistant Director General, Ministry of Communications and IT, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
4. Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna.

.... Respondents.

By Advocate: - Mr. H.P. Singh, Sr. SC

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA the applicant has prayed for directing the respondents to consider the candidature of the applicant to the post of Superintendent of Post Offices against the notification dated 07.10.2016. The applicant has alleged that he was not allowed to appear in the Limited Departmental Competitive Examination held for selection to this post since he has not completed 5 years of qualifying service. The reason for his not being able to complete 5 years was the failure on the part

of the respondents in correctly assessing the result of the examination held earlier between 10th to 12th August, 2007 for the post of Inspector of Posts. Though the applicant had done well in the said examination his name was missing in the results and following OA No. 701 of 2011, which allowed re-assessment of his answer, the applicant was declared successful in that examination. The declaration of the final result which happened on 30.11.2015, almost 5 years after the declaration of original results in the year 2010, is the reason for his not getting appointed to the post of Inspector of Post at a time when his juniors were appointed and for his not being able to fulfil the conditions regarding 5 years of qualifying service. At the time of initial hearing of the OA on 19.09.2016 this Tribunal found the balance of convenience to be in favour of the applicant and the respondents were directed to allow the applicant provisionally to appear in the examination and to abide by the outcome of this OA.

2. The respondents have filed their written statement in which they have stated that the applicant had not completed 5 years of regular service and therefore he was not entitled to appear in the Limited Departmental Competitive Examination for promotion in the cadre of Postal Superintendent. The respondents have not questioned the facts stated in the OA and rested their case solely on the ground of the applicant not having fulfilled the 5 years criteria of service in the grade of Inspector of Posts before becoming eligible to appear in the examination for selection to the Postal Superintendent's grade.

3. We have gone through the pleadings and heard the learned counsel for the parties. It is an admitted fact that the applicant was promoted to the Inspector grade almost 5 years later than when he should have been if there was no mistake in the assessment of his answersheets for promotion to the grade of Inspector. Thus, the failure on the part of the applicant to acquire qualifying service is squarely on account of the initial failure of the respondents to assess him correctly and promote him when it was due. The learned counsel for the respondents argued that whatever may have been the reasons the facts remain that the applicant has not been able to gain 5 years' experience which is required for handling responsibility for the job at a higher level. Though there may be some logic behind this argument, we do not think a person should be denied a right to appear in the examination for selection to a higher job on account of a shortcoming for which the respondents themselves are responsible. This Tribunal has already allowed the applicant to appear in the examination. We accordingly direct the respondents to assess the result of that examination and consider the candidature of the applicant to the post of Superintendent of Post Offices (group B) against the notification dated 07.10.2016 if he is otherwise found fit (without insisting on completion of 5 years of service before writing the examination). This should be done within three months of receipt of this order. The OA is disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member