

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00825/2016**

Date of order: 05.02.2020

C O R A M

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

Suman Kumar, Son of Late Sudama Pandit, Postal Assistant, Munger HO, District- Munger (Bihar).



.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Director General of Post, Ministry of Communication, Department of Post, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle, Patna.
3. The Director, Postal Service (HQ.), Office of the Chief Post Master General, Bihar Circle, Patna.
4. The Assistant Director (Recruitment), Office of the Chief Post Master General, Bihar Circle, Patna (Bihar).

.... Respondents.

By Advocate: - Mr. Radhika Raman

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for quashing and setting aside the Note portion " Postal/Sorting Assistants placed in TBOP/BCR scales/levels under functional upgradation/Assured Career Progression Schemes are not eligible to appear in the Limited Departmental Competitive Examination." as mentioned in the notification dated 07.10.2016 issued by respondent no. 4 following which the applicant has been denied to appear for promotion in the LDCE scheduled to be held as per the above mentioned

notification. The applicant has also prayed for declaring the applicant eligible to appear for promotion to the cadre of P.S. Group-B from 2012-13 onwards and to direct the respondents to grant promotion in the cadre of P.S. Group-B after his being declared successful, with all consequential benefits taking into account the order already passed by this Tribunal on 02.07.2013 in his previous OA No. 467/2012. The applicant had also prayed for an interim relief of allowing him to appear in the examination scheduled to be held on 04.12.2016. The Tribunal had allowed the applicant to appear in the examination provisionally subject to the outcome of this OA by its order dated 30.11.2016. The applicant has claimed that the condition mentioned in the above-mentioned Note is contrary to the direction of this Tribunal passed in OA 467/2012 where the same applicant was denied to appear in the same examination for the vacancy year 2012 on the same ground. This Tribunal had granted him interim relief to appear in the examination provisionally and finally the said OA was allowed on 02.07.2013.

2. A written statement has been filed by the respondents in which they have admitted that applicant was allowed to provisionally appear in the examination following the direction of this Tribunal dated 30.11.2016. The written statement repeatedly quotes para 6 (b) of the Directorates letter No. A-34012/8/2016-DE dated 07.10.2016 according to which Postal/Sorting Assistant placed in TBOP/BCR scale under financial upgradation/Assured Career Progression Scheme are not



eligible to appear in the examination. Since the applicant is TBOP official therefore he is not entitled to appear in PS Gr. B exam.

3. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. Learned counsel for the applicant produced the decision of this Tribunal in OA 467/2012 where, in a case involving the same parties and the same issue, this Tribunal had allowed the OA of the applicant and allowed him to appear in the examination for promotion to P.S. Group-B held in the year 2012. We have gone through this decision. The decision, besides deciding that case on other relevant issues, also takes note of the clarification issued by the Department of Post on 13.08.2003 where it has been stated that "The officials promoted under TBOP/BCR scheme are eligible to take the examination on completion of 5 years. 5 years' service in LSG are reckoned from the date the official is notionally promoted to LSG or higher grade so as to be eligible for appearing in the departmental competitive examination for promotion to P.S. Group-B grade." We find that the respondents have not pleaded anything about the applicant not having completed the required period of five years in the LSG and have only taken the argument about officials promoted under TBOP/BCR schemes not being eligible to take the examination. Since the Tribunal had not accepted this condition as valid for stopping anyone from competing in the LDCE in the light of the Department of Post's own clarification, denying the applicant an opportunity to appear in the exam,



on the basis of the same condition, is clearly not correct. We, therefore, have no option but to stick to our earlier decision in this matter and declare the condition regarding non-eligibility of TBOP/BCR level officers, contrary to their earlier clarification in this regard, as illegal. The respondents have not produced any justification why the fresh notification has added the same Note, that debarred the applicant from appearing in the examination, in spite of this Tribunal's clear finding on the same matter in an earlier case between the same parties. In the above-mentioned circumstances, the OA is allowed. Since the applicant has already been allowed to appear in the examination following this Tribunal's orders, his result should now be declared and necessary promotions granted, if he is found successful in the said examination. Necessary action to implement the above direction should be completed within three months from the date of receipt of this order. No order as to costs.

[Dinesh Sharma]
Administrative Member
Sr. K.

[Jayesh V. Bhairavia]
Judicial Member

