

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

Reserved on: 01.01.2020
Pronounced on: 02.02.2020

C O R A M

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

I. OA/050/00727/2017

Suman Kumar @ Suman Kumar Mishra, aged about 32 years, Son of Late Badri Narayan Mishra, resident of Village and Post Office- Shakhund, P.S.- Shakhund, District- Bhagalpur, PIN- 813108.

.... Applicant.

By Advocate: - Mr. I.D. Prasad

-Versus-

1. The Union of India, through the Director General, Department of Post, Dak Bhawan, Sansad Marg, New Delhi- 110001.
2. The Chief Postmaster General, Bihar Circle, Patna- 800001.
3. The Asst. Director, Office of the Chief Postmaster General, Bihar Circle, Patna- 800001.
4. A.D. Recruitment, Office of the Chief Postmaster General, Bihar Circle, Patna- 800001.
5. The Superintendent of Post Offices, Bhagalpur Division, Bhagalpur- 812001.

.... Respondents.

By Advocate: - Mr. Deepak Kumar

II. OA/050/00411/2018 with MA/050/00141/2019

Arun Thakur, S/o Late Ramphal Thakur, Village & PO- Malpur Agrail, P.S.- Sakra, Via- Chandanpatti, District- Muzaffarpur.

.... Applicant.

By Advocate: - Mr. Jayant Kumar Karn

-Versus-

1. The Union of India, through the Secretary Cum DG, Govt. of India, Ministry of Communications & IT, Department of Posts, New Delhi- 110001.
2. The Chief Postmaster General, Bihar Circle, Patna- 800001.



3. The Asstt. Director (Recruitment), O/o the Chief Postmaster General, Bihar Circle, Patna- 800001.
4. The Postmaster General, Northern Region, Muzaffarpur- 842002.
5. The Asstt. Director- I, O/o Postmaster General, Northern Region, Muzaffarpur- 842002.

.... Respondents.

By Advocate: - Mr. Rabindra Rai

ORDER



Per Dinesh Sharma, A.M:- Since the core legal issue involved in both the cases is the same, i.e. whether the educational qualification of Madhyama from Bihar Sanskrit Siksha Board (BSSB) can be considered enough for consideration of compassionate appointment under the Postal Department, these two OAs are being disposed of with the following common order.

2. In both the OAs, the applicants are aggrieved by the respective rejection orders passed by Office of the Postmaster General, Northern Region, Muzaffarpur on 27.07.2017 (in OA/050/00411/2018) and Office of the Chief Post Master General, Bihar Circle, Patna dated 17.07.2017 (Annexure A/1 in OA/050/00727/2017). The main portion of both these orders are reproduced below:-

“ **OA/050/00411/2018**

The Assistant Director (Recruitment), C.O., Patna vide C.O. letter R & E-76/2017-54/GDS dated 19/17.07.2017 has intimated that your case has been examined in the light of rules on the subject and found that you have passed Madhyama from Bihar Sanskrit Siksha Board, Patna and as per rules, only Secondary School Examination pass certificate of 10th standard conducted by any recognized board of

education in India shall be mandatory educational qualification for all approved categories of GDS.

This is for your kind information.”

“ **OA/050/00727/2017**

The above case has since been received in this Office on 09.03.2017 and the case has been examined in the light of rules on the subject and found that the Applicant has passed Madhyama from Bihar Sanskrit Siksha Board, Patna, and as per rule on the subject, only Secondary School Examination pass certificate of 10th standard conducted by any recognized board of education in India shall be mandatory educational qualification for all approved categories of GDS.

The applicant may kindly be informed accordingly.”



3. The claim of the applicants is that such rejection is wrong since Bihar Sanskrit Siksha Board is recognized by State of Bihar as well as by the Council of Boards of School Education in India.

4. The written statements have been filed in both the OAs denying the claim of the applicants. In OA No. 411/2018 they have mentioned about the financial health of the applicant (though not as a ground for rejection) and re-stated what is mentioned in the impugned order of rejection. In the written statement filed in OA 727/2017 also the respondents have mentioned the same reason, that the Bihar Sanskrit Siksha Board is neither an approved Board by the State Government nor by the Central Government and hence justified the rejection of the applicants' request for compassionate appointment. The respondents have also produced judgments/ orders dated 06.04.2018 passed in CWJC No. 16372 of 2017 and judgment/order dated 06.10.2018 in LPA No. 646 of 2018 in support of their contention.

5. Rejoinders have been filed in both the OAs restating the earlier claims of the applicants. The applicant in OA 411 of 2018 has also enclosed copies of the decisions by this Tribunal in OA/050/00542/2017 dated 01.11.2018 and OA/050/00053/2019 dated 16.01.2019 to support their claim that certificate of Madhyama issued by the BSSB should be accepted as minimum qualification for the purpose of consideration of application for appointment on compassionate grounds. In the rejoinder filed in OA/050/00727/2017 the applicant therein has again brought to this Tribunal's attention to Annexures A/3 enclosed with this OA where the Government of Bihar has clearly recognized Bihar Sanskrit Shiksha Board as "equivalent" to the Matriculation/Secondary School Examination certificate.



6. I have gone through the pleadings and heard the arguments of learned counsels for the parties. I find that the decisions of the Hon'ble High Court cited by the respondents in their reply to OA/050/00727/2017 specifically mention that there was no evidence shown before the Hon'ble High Court about the Madhyama Examination of BSSB having been recognized either by the Central or Bihar Government. Since, now, the applicant in OA/050/00727/2017 has brought the specific orders of the Bihar Government to the notice of the Tribunal where such "equivalence" has been clearly recognized, I do not think that the decision of the Hon'ble High Court, in cases cited above, will be applicable in the cases now before this Tribunal. I also take note

of the fact that in a number of cases cited by the applicants, mentioned above, this Tribunal has taken an express stand that Madhyama examination is to be treated as fulfilling the minimum educational standards required for compassionate appointment under the Postal Department. It was argued by the learned counsel for the respondents that the rule regarding recruitments of Sub Post Master/Branch Post Master did earlier prescribe matriculate or equivalent examination. However, by a circular issued on 14.01.2015 (No. 17-39/6/2012-GDS) and clarification issued on 15.06.2017 (No. 17-23/2016-GDS), it has been made very clear that only secondary school examination pass certificate conducted by any recognized Board shall be a mandatory educational qualification. The clarificatory circular dated 15.06.2017 also makes it very clear that those qualifications which are shown as “equivalent” of the Secondary School Examination Board will not be considered as eligible for inclusion in the selection notification. The learned counsel argued that this new procedure applies to all recruitments made after this date even though notifications might have been made before this date. The learned counsels for the applicants argued that even if the Department has changed their requirements for minimum educational qualification and removed “equivalent” examinations from such consideration, this cannot be given retrospective effect. Since the applicants in both these OAs had applied for compassionate appointment before this Circular, the rejection of their qualification on the basis of these circulars is wrong. I find merit in the argument of the



learned counsels for the applicants. Hence, without getting into the merit of whether the dropping of “equivalent” requirement in the aforementioned circulars is legally correct or not, I find that this could not be applied retrospectively. Since, undoubtedly, the applicants in both these OAs had applied for compassionate appointment before the new circulars allegedly dropping the “equivalent” requirement from the list of minimum eligibility criteria, their application should have been considered treating Madhyama Certificate, which are recognized by Bihar Government as “equivalent” to Secondary School Examination, as sufficient for the minimum educational requirement required for compassionate appointment. I, therefore, direct the respondents in both the OAs to consider the applicants’ request for compassionate appointment while treating the Madhyama Examination certificates as sufficient compliance of the minimum educational requirement under their rules. A decision, after examining all other relevant aspects in matter of compassionate appointment, should be taken and a reasoned and speaking order be passed by the respondents within three months from the date of receipt of the orders in these OAs. The OAs as well as MA/05000141/2019 (filed in OA/050/00411/2018) are disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member

Srk.

