

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
OA/050/00429/2016

Date of order reserved : 07.02.2020

Dated of order : 12th Feb., 2020

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Shri Dinesh Sharma, Member [Administrative]

Aman Anand, S/o Sri Bharat Prasad Singh, Village – Fatikwara, PO – Harpur
Fatikwara, PS – Mahnar, District – Vaishali.

Applicant.

By Advocate : Shri J.K.Karn.

Vs.

1. The Union of India through the D.G.-cum-Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar, Circle, Patna.
3. The Superintendent of Post Offices, Vaishali Division, Hajipur.
4. Sri Vivek Kumar Singh, S/o Sri Lalit Kumar Singh, Vill. & PO – Basudeopur, Chandel, District – Vaishali – 844501.

Respondents.

By Advocate : Mrs. P.R.Laxmi, ASC
Shri M.P.Dixit for Private Respondent.

O R D E R

Per Jayesh V. Bhairavia , Member [J]: The applicant has filed the instant OA seeking the following reliefs : -

“8[A] The erroneous Selection of Respondent No.4 on the post of GDSBPM at Harpur Fatikwara Branch Post Office in account with Basudeopur Chandel Sub Post Office under Vaishali Division, Hajipur, ordered by Superintendent of Post Offices, Vaishali as displayed on Notice Board of his Office through Merit

Chart dated 25.05.2016, so far the same relates to Selection of Respondent No.4 as contained in Annexure-A/4 may be set aside.

8[B] The respondent authorities may be directed to consider the candidature of applicant for his appointment against the post of GDSBPM at Harpur Fatikwara Branch Post Office in account with Basudeopur Chandel Sub Post Office under Vaishali Division, Hajipur with all consequential benefits.

8[C] The cost of litigation incurred in filing the instant OA, may be awarded upon the respondents as the applicant has been compelled to file the instant OA.

8[D] Any other relief/reliefs as the applicant is entitled and your Lordships may deem fit and proper in the ends of justice.”

2. The applicant's case in short, may be summarized as under : -

[i] The Post of GDSBPM, Harpur Fatikwara Branch Post Office in account with Basudeopur Chandel Sub Office under Vaishali Division, Hajipur fell vacant [unreserved] and the same was advertised by the Superintendent of Post Offices, Vaishali Division, Hajipur, vide Employment Notice dated 19th Feb., 2016 [Annexure-A/1], whereby it was requested to sponsor the names of at least 03 eligible candidates. Apart from other conditions for appointment for the post, one of the condition was that the applicant must have 60 days basic computer training certificate from recognized Computer Training Institute. The Computer

Training Certificate from Central Government/State Govt./University/Board etc. will be acceptable for this purpose and the certificate from the Private Computer Training institution shall also be acceptable subject to their recognition by the Head of Bihar Postal Circle.

[ii] The applicant submitted that being eligible, he applied for the post, vide his application dated 08.02.2016 [Annexure-A/2]. But ignoring his merit position, the appointing authority issued an order of selection in favour of Respondent No.4 on extraneous considerations who has secured lesser marks in Matriculation to the applicant. In this regard, the Id. Counsel drawn our attention towards Annexure-A/4, wherein the Respondent No.4 has secured 87.4% marks in the Matriculation Examination whereas the applicant has secured 95% marks. Therefore it is submitted that on extraneous conditions, the Respondent No. 4 has been ordered appointment ignoring the better candidature of the applicant.

[iii] The applicant further contended that as per departmental circular, the candidate placed first in merit list, has to be issued selection order and after acceptance of selection, verification of

accommodation has to be done and thereafter, police verification and medical examination has to be done before permitting the candidate to join the post. But in the present case ignoring the mandatory requirements of the circular, the respondents erroneously completed the selection process in favour of the Respondent No.4, which is infringement of fundamental rights guaranteed under Article 14 and 16 of the Constitution, hence the present OA.

3. On the other hand, the respondents by way of filing their written statement, have contested the case. According to them, the post of Gramin Dak Sevak, Brand Post Master, Harpur Fatikwara BO in a/c with Basudeopur Chandel S.O. fell vacant in the year 2005 due to removal from service of the incumbent. The Superintendent of Post notified for filling up of the post, vide this office letter no.A-69 dated 19.01.2016 through District Employment Exchange, Hajipur as also notified on the notice board. A corrigendum of this notification was also issued vide letter dated 21.01.2016. The post was notified for unreserved category and the last date of receipt for application was 17.02.2016. The total number of 08 applications were received from the District Employment

Exchange, Hajipur and 48 applications were received from the individuals.

4. The respondents further submitted that in terms of CO, Patna letter no. R&E 12/GDS-1/2015 dated 26.10.2015, a notification was also issued for filling up of 09 other vacant posts of GDSBPM in Vaishali Division, which was notified on 21.01.2016 and 19.02.2016. The Selection Committee Meeting was held on 22.04.2016. All envelopes containing application was opened before the Committee and scrutinized by the Committee itself. The Committee decided to reject such applications on which no post was mentioned. Thereafter, a merit list of eligible candidates under the rules was drawn by the Committee. The Committee recommended the name of Mr. Vivek Kumar who is having 87.4% marks in the Secondary School Examination for selection. After completing due verification of genuineness of certificates/documents of said Shri Kumar and due formalities, he was engaged to the post of GDSBPM, Harpur Fatikwara BO in account with Basudeopur Chandel SO vide office memorandum dated 30.05.2016. Thereafter, Shri Vivek Kumar joined the post on 16.06.2016.

5. The respondents contended that the application of the applicant was not considered by the Selection Committee as he failed to mention

the name of the post which was required to be mentioned as per notification, vide Annexure-R/7 series. In this regard, the learned counsel for the respondents drawn our attention towards the notification dated 19th January, 2016, in which it was specifically mentioned that the envelope containing application must super scribed “APPLICATION TO THE POST OF GDSBPM” and incomplete application and application received after the last date fixed, will not be considered.

6. The respondents relied upon a decision rendered by Hon’ble Patna High Court in the case of Bittu Kumar vs. The State of Bihar, Civil Writ Jurisdiction Case No.5405 of 2016, in which the Hon’ble High Court held that – “what is not condonable is tht the column with regard to advertisement number as well as the post has been provided right at the top of the application form and it is the first column which every candidate is required to fill, which has not been done. Obviously, the petitioner may not be competent enough to understand even how to fill an application form for public employment whatever be his knowledge and degree, which makes him eligible for consideration for the post.

7. The Private Respondent No. 4 filed his written statement separately and contested the case. He submitted that this OA is fit to be dismissed for the reason that the applicant has suppressed the very vital

part, i.e. the envelope containing application must super scribed “Application to the Post of GDSBPM” Incomplete application and the application received after last date fixed, will be considered. The private respondent further submitted that the applicant was lacking the mandatory Clause-A which is with respect to – the applicant must have 60 days basic computer training certificate from a recognized Computer Training Institute. Certificate from the Private Computer Training Institute shall also be acceptable subject to recognition by the Head of Bihar Postal Circle. But in the instant case, the certificate of the applicant issued by Private Institute is not recognized by the Head of the Postal Circle as evident from letter dated 19.01.2016 [Annexure-S/1].

The Private Respondent further submitted that the applicant has enclosed advertisement concerning appointment to the post of GDSBPM, Harpur Fatikwara whereas he has enclosed merit list of GDSBPM Dharampur BO, which has no concern with the present OA. The Private Respondent further submitted that in view of the aforesaid factual aspect, this OA deserves to be dismissed.

8. Heard the learned counsel for the parties and gone through the materials available on record.

9. We have noticed that the Post of GDSBPM, Harpur Fatikwara Branch Post Office in account with Basudeopur Chandel Sub Office under Vaishali Division, Hajipur fell vacant [unreserved] and the same was advertised by the Superintendent of Post Offices, Vaishali Division, Hajipur, vide Employment Notice dated 19th Jan., 2016 [Annexure-A/1], whereby it was requested to sponsor the names of at least 03 eligible candidates.

10. The counsel for the applicant also submitted that the method of selection was strictly based on the marks obtained in Secondary School Examination pass certificate of 10th standard conducted by any recognized board of School Examination in India and will be guided by the rules and instructions issued by the department from time to time. The applicant has more meritorious marks in SSC than the selected candidate, therefore, candidature of the applicant ought not to have cancelled merely on technical ground. Though the said submission appears attractive but in the light of mandatory condition stipulated in the advertisement for employment of GDSBPM, Harpur Fatikwara BO in a/c with Basudeopur Chandel SO under Vaishali Division, Hajiplur.

It is further noticed that apart from other conditions for appointment for the post, one of the mandatory condition was that the

applicant must have 60 days basic computer training certificate from recognized Computer Training Institute. The Computer Training Certificate from Central Government/State Govt./University/Board etc. will be acceptable for this purpose and the certificate from the Private Computer Training institution shall also be acceptable subject to their recognition by the Head of Bihar Postal Circle, which the applicant failed to prove that he was having necessary certificate of computer training from a recognized institute as stipulated in the advertisement.

It is also noticed that as per the condition stipulated in advertisement, the envelope containing application must super scribe "Application to the Post of GDSBPM". In the present case, on perusal of Annexure-R/7 series, admittedly the applicant failed to fulfill the aforesaid condition and did not stated "Application to the post of GDSBPM" on the envelope which was sent by the applicant. The respondents have not considered the said envelope of the applicant a valid application. It is also seen that other candidates who had also not fulfilled the aforesaid condition, their envelopes have also not been treated as valid, and along with others, the application filed by the applicant has not been taken into consideration for further scrutiny. There is no rebuttal by the applicant in this regard. In view of this

factual matrix, we do not find any reason to interfere with the selection process and declaration of merit chart dated 25.05.2016, which is impugned herein.

11. We have also examined the submission of the Private Respondent that the applicant has annexed advertisement concerning appointment to the post of GDSBPM, Harpur Fatikwara whereas he has enclosed the merit list of GDSBPM, Dharampur BO. In our considered opinion, this will not help the applicant to justify his claim for appoint to the post in question. We do not find any infirmity in the selection process done by the respondents.

12. In view of the aforesaid discussions, the OA fails. Accordingly, the same is dismissed with no orders as to costs.

Sd/-

[Dinesh Sharma]M[A]

Sd/-

[Jayesh V. Bhairavia]M[J]

mps.