

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 14th day of July 2020

Original Application No. 330/00277 of 2020

Hon'ble Justice Mrs. Vijay Lakshmi, Member (J)

Gulam Sabir, S/o late Ahmad Ali, C/o Ex-GDS, Post Office-Lalapur Bhatpura, Tehsil – Jasra, District – Allahabad, U.P.

. . . Applicant

By Adv : Shri Narendra Pratap Singh

V E R S U S

1. Union of India through Secretary, Ministry of Communication, Department Post, New Delhi.
2. Chief Post Master General, Lucknow Zone, Uttar Pradesh, Lucknow.
3. Assistant Director, Appointment, Chief Post Master General Office, Lucknow Zone, Uttar Pradesh.
4. Assistant Director, Postal Services, Allahabad Region, Allahabad.
5. Senior Superintendent of Post Offices, Allahabad, U.P.
6. Assistant Superintendent of Post Offices, South Sub - Division, Allahabad, U.P.

. . . Respondents

By Adv: Shri Raj Pal Singh

O R D E R

Heard Shri Narendra Pratap Singh, learned counsel for the applicant and Shri Mukesh Kumar holding brief of Shri Jitendra Prasad, learned counsel for the respondents. Perused the record available in pdf form.

2. This OA has been filed by the applicant seeking compassionate appointment. According to the facts as mentioned in the OA, the father of the applicant died on 10.04.2014. After the death of his father, the applicant moved an application on 25.05.2014, seeking compassionate

appointment in place of his father in the office of respondent No. 5. Respondent No. 5, in response to the aforesaid application, issued a letter dated 25.06.2014 to respondent no. 6, seeking certain informations about the applicant. A letter dated 12.07.2014 was issued by respondent No. 6 to collect the relevant documents and original certificates. In response to letter dated 25.06.2014, respondent No.6 sent all those documents to respondent No. 5 on 01.04.2016. After receiving the documents, respondent No. 5 issued another letter dated 03.05.2016 directing respondent No. 6 to verify all the documents of the applicant. Finally, the case of the applicant alongwith all documents could be sent to the office of Chief Post Master General, Lucknow on 14.09.2017. After receiving the aforesaid letter, office of the Chief Post Master General, Lucknow raised some query vide letter dated 04.10.2017 from Post Master General, Allahabad. In reply to the letter dated 04.10.2017, respondent No. 5 sought clearance from the office of respondent No. 6. On 20/26.07.2018, office of Chief Post Master General, Lucknow again asked three queries. These office correspondences continued till 06.11.2019 and ultimately vide impugned order dated 22.01.2020 (Annexure A-14), the claim of the applicant, which was pending since May 2014, was rejected on the ground the applicant is not fulfilling the basic eligibility criteria circulated vide letter dated 08.03.2019, as he has not passed High School examination with Mathematics as a subject.

3. The grievance of the applicant is that his case is not covered with the aforesaid revised notification dated 08.03.2019, instead his case is covered by notification dated 14.01.2015 in which eligibility criteria was different and it was not required at that time to pass High School Examination with Mathematics.

4. Learned counsel for the applicant submitted that the revised notification will not apply from retrospective effect but it is prospective in nature which is clearly evident from a bare reading of the notification itself.

5. In this regard, my attention has been drawn to notification No. 17-02/2018-GDS dated 08.03.2019 (Annexure No. 17). Relevant portion of the said notification is quoted below :-

“2. The revised eligibility conditions and criteria will come into effect for the vacancies to be notified on or after the date of issue of the notification. The engagement process initiated before this date shall be finalized as per the existing instructions.”

6. My attention has also been drawn to previous notification No. 17-39/6/2012-GDS dated 14.01.2015 (Annexure A-16). Relevant portion of the aforesaid notification is as under:-

“B. Educational Qualification
(i) ‘Secondary School Examination pass certificate’ of 10th standard conducted by any recognized board of school education in India shall be mandatory educational qualification for all approved categories of Gramin Dak Sevaks referred to in Rule 3 (d) of the GDS (Conduct and Engagement) Rules, 2011 as amended from time to time.”

7. Learned counsel for the applicant has submitted that applicant will be governed by previous notification dated 14.01.2015 because his application is pending since 25.05.2014 and at that time there was no such eligibility criteria of passing High School examination with Mathematics. Ld. counsel for the applicant has vehemently contended that the eligibility for a post based on educational qualification, cannot be revised with retrospective effect. However, the respondents, without considering this basic principle, have illegally and arbitrarily rejected the valid claim of the applicant vide impugned order.

8. Learned counsel for the applicant submitted that the applicant is ready to submit a fresh representation before respondent No. 4 and he will be satisfied if respondent No. 4 is directed to decide his representation, keeping in view all the aforesaid legal points in the facts and circumstances of the case.

9. Ld. counsel for the respondents has opposed the prayer of applicant, however he could not give any satisfactory answer to the question put to him by me as to how could an eligibility criteria be changed from retrospective effect?

10. Having heard Id. counsel for the parties and having gone through the record, it appears that no purpose is going to be served in keeping this OA pending.

11. Accordingly, this OA is disposed of at admission stage itself with the direction that if the applicant makes a fresh representation, ventilating all his grievances, as argued before this Bench, within a period of 15 days from today, respondent No. 4 will decide his representation by a well reasoned and speaking order, specifically clarifying the point as to why the applicant will be governed by revised notification dated 08.03.2019 and not by previous notification dated 14.01.2015, within a period of four weeks from the date of receipt of representation of the applicant alongwith certified copy of this order.

12. With the aforementioned direction, this O.A. is disposed of. There is no order as to costs.

(Justice Vijay Lakshmi)
Member (J)

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