

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

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O.A/350/00516/2020

Date of Order: 7.8.2020

**Coram: Hon'bleMs.Bidisha Banerjee, Judicial Member
Hon'bleDr.NanditaChatterjee, Administrative Member**

Abir Dey,
Son of Shyamal Kumar Dey,
Aged about 33 years,
Residing at Village – Akra Noapara,
Near Shibmandir (Sanjibani Club),
P.O. & P.S. – Maheshtala,
District – 24 – Parganas (South),
Kolkata – 700 141,
By Occupation – Unemployed.

.....Applicant.

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1. Union of India,
Service through the Secretary,
Ministry of Communication & IT,
Department of Tele Communication,
Govt. of India,
Having its office at Sanchar Bhawan,
20, Ashoka Road,
New Delhi – 110 001.
2. Chief Postmaster General,
West Bengal Circle,
Having office at Yogayog Bhawan,
Chittaranjan Avenue,
Kolkata – 700 012.
3. Postmaster General,
West Bengal Circle,
Having office at Yogayog Bhawan,
Chittaranjan Avenue,
Kolkata – 700 012.
4. Assistant Director of Postal Services (Recruitment),
West Bengal Circle,
Having office at Yogayog Bhawan,
Chittaranjan Avenue,
Kolkata – 700 012.
5. Circle Recruitment Committee,
West Bengal Circle,
Having office at Yogayog Bhawan,

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Chittaranjan Avenue,
Kolkata – 700 012.

6. Senior Superintendent of Post Offices,
Barasat Division,
Barasat,
District : North 24- Parganas,
Pin – 700 124.

7. Suman Das,
Son of Rabindra Nath Das,
Having office at Barasat Head Post Office,
Jessore Road,
Shibananda Palli,
Barasat,
West Bengal,
Pin – 700 124.

.....Respondents

For The Applicant(s): Mr. B.Chatterjee, Counsel

For The Respondent(s): Mr. S. Paul, Counsel

ORDER (ORAL)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved at non selection as PA/SA against "sports quota", the applicant has approached this Tribunal, seeking the following relief:

"(a) An order do issue directing the respondents authority to quash and set aside the Declaration of Result being No. Rectt/R-8/DQ (Sports)/2015-16 dated 18.02.2020 issued by Assistant Director of Postal Services (Rectt.) in the Discipline of Best Physique cum Weight Lifter 75 Kg. category;

(b) An order do issue directing the official respondents to quash and set aside the appointment of the private respondent No. 7;

(c) An order do issue directing the official respondents to issue appointment letter in favour of the applicant in terms of the Notification dated 06.08.2018 for the post of Postal Assistant/Sorting Assistant in West Bengal Postal Circle against Outsider Quota of Vacancies under Sports Quota in the Discipline of Best Physique cum Weight Lifter 75 Kg. category;

(d) An order do issue directing the respondents authority to produce all the relevant records in connection with the Selection/Appointment before this Hon'ble Tribunal;

(e) Costs;

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(f) For any other appropriate order or orders as your Lordships may deem fit and proper;"

2. Heard both Id. counsel. This matter is taken up at the admission stage for disposal.

3. The case of the applicant, as advocated by his Id. Counsel is that, the applicant is a renowned Weight Lifter, and, as such, he has participated in the 64th Senior Men National Weight Lifting Championship in the year 2011-2012 organized by Tamilnadu Weight Lifting Association under the authority of International Weightlifting Federation, that he had secured 3rd place in 75 kg. category and had also participated in 83rd Men Eastern India Weight Lifting Championship-2015, organized by Manipur Weight Lifting Association under the aegis of Eastern India Weight Lifting Association and was declared as the winner in 75 kg. category. Thereafter, he participated in the 51st Senior National Body Building Championships in the year 2016 and secured 3rd position in 75 kg. category. He participated in All Bengal Open Body Building Contest in the year 2016 and also secured first position in the State Best Physique Championship Bagasree - 2016.

That the Department of Posts, West Bengal Circle, published an Employment Notification dated 06.08.2018 for Recruitment in Postal Department, West Bengal Circle against Sports Quota in the discipline of, inter alia, "best Physique cum Weight Lifter 75 kg.", for the post of Postal Assistant/Sorting Assistant, and, the applicant applied for the said post. The applicant would claim that he is an eligible Sports Personnel as he possesses all necessary Certificates as well as the requisite educational qualifications.

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On 18.02.2020, the Postal Authority published the selection results, whereby, the private respondent, reportedly a less meritorious sportsperson was selected, purportedly by adopting a pick and choose method, which, according to the applicant, is in utter violation of Article 14 of the Constitution of India in Public Employment. Hence this Original Application.

The applicant's counsel would draw our attention to para 5 of Department of Posts' Application form at (Annexure A-3) and urge that the authorities, while choosing the private respondents, have violated the instructions inasmuch as a less meritorious candidate has been selected ignoring the rightful claim of the more meritorious applicant resulting in unfair discrimination against the applicant.

The extracted para 5 of the notification reads as under:-

5) ORDER OF PREFERENCE FOR APPOINTMENT OF MERITORIOUS SPORTS PERSON IN RELAXATION OF RECRUITMENT RULES :

In order to facilitate proper selection of sports persons who fulfill the eligibility conditions laid down in Para. 4 above shall be considered in the following order of preference :

- i. First preference to those candidates who have represented the country in an international competition with the clearance of the Department of Youth Affairs and Sports.
- ii. Next preference may be given to those who have represented a State/ UT in the Senior or Junior Level National Championship organized by the National Sports Federations recognized by Department of Youth Affairs and Sports or National Games organized by Indian Olympics Association and have won medals or positions up to 3rd place. Between the candidates participating in Senior and Junior National Championships/ Games, the candidates having participated and won medal in Senior National Championship should be given preference.
- iii. Next preference may be given to those who have represented a University in an Inter-University competition conducted by Association of Indian Universities / Inter-University Sports Board and have won medals or positions up to 3rd place in finals.
- iv. Next preference may be given to those who have represented the State Schools in the National Sport/ Games for Schools conducted by the All India School Games Federation and have won medals of positions upto 3rd place.
- v. Next preference may be given to those who have been awarded National Award in physical efficiency under the National Physical Efficiency Drive.
- vi. Next preference may be given to those, who represented a State/ UT/University/ State School Teams at the level mentioned in categories ii. to iv. but could not win a medal or position, in the same order of preference.

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Notes :

- a) In the event of tie, those who have secured a higher position or won more than one medal may be given the preference.
- b) Participation in individual and team event/ item may be given the same preference.
- c) No preference may be given for winning more than one medal/position.
- d) In case of any doubt about the status of a tournament, the matter will be decided by the Department of Personnel and Training in consultation with Department of Sports and Youth Affairs.



4. Ld. Counsel for the respondents would vehemently oppose the prayer made in the O.A. with the averment that relevant instructions were scrupulously followed in the selection process.
5. On perusal of records, however, we find that the applicant has approached this Tribunal without preferring any representation to the authorities or/without exhausting the remedies available under the rules.
6. Ld. Counsel for the applicant would hence pray for liberty to prefer such representation whereby the applicant may ventilate his grievances, a prayer Ld. Counsel for the respondents would not oppose if disposal of such representation is directed to be made in accordance with law.
7. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we direct the applicant to prefer a comprehensive representation to the competent authority within a period of 15 days from the date of receipt of this order. In the event such representation is made, the respondents shall duly consider the representation in accordance with law, and, shall issue a reasoned and speaking order specifically dealing with the issue of discrimination allegedly meted out to the applicant vis a vis the selected candidate (private respondent), in the light of instructions at Para 5, supra, and convey their decision to the applicant within eight weeks from the date of receipt of such representation.

Interim relief in terms of prayers at Para 9(a) and (b) is granted and shall continue till disposal of the representation.

8. Accordingly the present O.A. stands disposed of. No costs.



(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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