

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

THIS THE 21 DAY OF July 2011

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)
HON'BLE MR., D. C. LAKHA, MEMBER (A)**

Original Application No. 724 OF 2007
(U/S 19, Administrative Tribunal Act, 1985)

Sunil Singh S/o Ranbir Singh Bist, aged about 24 years, r/o Village Esoti, O.O. Erakhal patty Mawalsuen, District - Paurigarwal.

.....Applicant
V E R S U S

1. Union of India, through Secretary Ministry of Communication, Department of Posts, New Delhi.
2. Post Master General, Dehradun Uttrakhand, Uttranchal.
3. Superintendent of Post Offices, Pauri Division, Pauri.
4. Smt. Bandana Thapliyal W/o Sri Suresh Thapliyal, r/o Village Era, P.O. Erakhal, District Pauri Garhwal.

.....Respondents

Present for the Applicant: Sri A. K. Dave

Present for the Respondents: Sri Saurabh Srivastava

O R D E R

Delivered By HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)

Instant O.A. has been instituted for the following relief/s:-

"i). to issue an order rule or direction for quashing the impugned order dated 20.06.2007(Annexure No.A-1) to the original application.

SC/2011/724

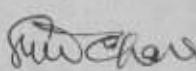
- ii). *To further direct the respondent No.3 to consider comparative merit of both the candidates as per the marks secured in High School Examination and ignoring the marks of Prathama examination of respondent No.4 of Hindi Sahitya Sammellan, Allahabad and issue orders of appointment afresh in favour of the applicant.*
- iii). *To pass any other and further order as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
- iv). *To award the cost of the application to the applicant."*

2. The facts of the case may be summarized as follows:-

That the applicant has passed the High school Examination in the year 1999 from the U.P. Board, in Second (IIInd) division and secured 357 marks out of 600 marks meaning thereby he secured 59.5% marks. The respondents issued a notification inviting applications in order to fill up the post of G.D.S. at Irakhal. On dated 22nd February, 2007. The notification was sent to the authority concern for sending minimum 3 and maximum 6 candidates of General Category for the selection for the post of G.D.S.(B.P.M.) so as to reach the applications in the office by 22nd March, 2007.

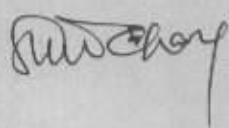
S. N. Chauhan

It was specifically mentioned in the notification that the candidates should be either High School passed or equivalent examination passed. It has provided that no weightage will be given to higher qualifications. Beside the applicant two other candidates viz. Bandana Thapaliyal & Ashok Chauhan applied for the post in question, and the applicant also submitted his necessary documents. Smt. Bandana Thapaliyal submitted his mark sheet of equivalent examination from Hindi Sahitya Sammelan, Allahabad with 66% marks, Sri Ashok Chauhan secured 63% marks in High School, but withdrawn his candidature vide his application dated 30th March, 2007. After withdrawal of Sri Ashok Chauhan only two candidates' applicant and respondent No.4 remained for consideration. That the certificate obtained from the Hindi Sahitya Sammelon, Allahabad submitted by the respondent No.4 is not at all tenable and sustainable, because the certificate that is not equivalent to the High School examination and it appears that the respondent No.4 secured this certificate of Prathama in the year 2006 in order to show higher marks in comparison to the applicant or only to improve her merit. Respondent No.4 also appeared in the High

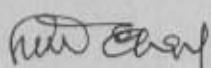


School examination in the year 1994 and secured 51.5% marks and the fact of High School Examination was concealed. A letter was issued by the Director of Education, Uttranchal, Dehradun office to District Inspectors Schools regarding recognition of examination conducted by the Hindi Sahitya Sammelon, Allahabad, and it has been alleged that the Prathama certificate is not equivalent to High School. That the applicant had also served in the Department as G.D.S. Irakhal as a Substitute or stop gap arrangement vide order dated 31st January, 2007 and served as such since than till 03rd July, 2007 and weightage must be given of this fact. Smt. Bandana Thapaliyal concealed the fact of her High School Examination passed by lesser marks that the appointment to the respondent No.4 was illegally issued as the applicant was possessing the High School Certificate with 59.9% marks and he deserves to be selected on the post.

2. Respondents contested the case and filed the Counter Reply. It has further alleged that the Superintendent of Post Offices sent a requisition on 22nd February, 2007 to the employment Exchange, DSSB,

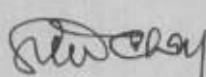


Pauri & DSSW Board Pauri to sent list of eligible candidates to this office within one moth and copy of the same were sent to Gram Pradhan concern. Six candidates have applied directly to the office within the last date of submission of application and the applicant was also a candidate for the post of G.D.S. B.P. Irakhal. As per the department's instruction the basis for selection was the merit of High School or equivalent examination and the comparative chart shows that Smt. Bandana Thapaliyal secured 66% marks in the equivalent examination whereas, Sri Sunil Singh secured 59.50% marks in the High School Examination and on other hand Smt. Bandana Thapaliyal secured more marks than the applicant and hence she was selected. The Prathama Examination conducted by the Hindi Sahitya Sammelon was recognized by the High level committee vide notification dated 14th May, 2004 for a period of three years from 27th July, 2004 to 27th July, 2007 as Prathama was equivalent to the High School examination and Smt. Bandana Thapaliyal secured more marks in Prathama Examination a equivalent qualification to the High School and hence she was selected whereas, Sri Sunil Singh secured only 59.5%



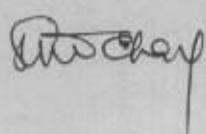
marks in the High School examination. The Govt. notification has been issued recognizing the Prathama equivalent to High School that the selection of the respondent No.4 was made following the departmental rule and that on verification of respondent No.4 found genuine. That the O.A. lacks merits and liable to be dismissed.

4. We have heard Mr. A. K. Dave, Advocate for the applicant and Mr. Saurabh Srivastava, Advocate for the respondents and perused the entire facts of the case. Undisputedly, a post was advertised by the respondents by issuing a notification on dated 22nd February, 2007 in order to fill up the post of G.D.S. at Irakhal, Annexure-A-3 is the copy of the notification. In response to the notification six candidates submitted their application form and the applicant was also one of the applicant for the post including respondent No.4. The criteria for selection was of securing higher marks in the High School Examination, and it was also provided specifically that no weightage shall be given to the higher education. It has been stipulated in the notification that the candidates must be High School or equivalent.

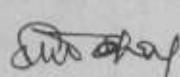


Undisputedly, the applicant secured 59.5% in the High School Examination and he appeared in the High School Examination of U.P. Board in the year 1999 and he passed examination with second division out of 600 marks he secured 357 marks. As per the averment of the respondents Smt. Bandana Thapaliyal was also a candidate for the post and as was provided in the notification that the candidates must be High School or Equivalent is eligible for applying for the post Smt. Thapaliyal filed the equivalent educational certificate of Prthama conducted by Hindi Sahitya Sammelon, Allahabad and that as per departmental rule it was recognized as equivalent to High School and in the Prthama examination applicant secured 66% marks and she was selected as per rules.

5. Learned counsel for the applicant argued that Smt. Bandana Thapaliyal appeared in the High School Examination conducted by the U.P. Board, Allahabad in the year 1994, but in the application submitted by respondent No.4 in response to the notification it was not disclosed by her that she appeared in the High School Examination conducted by the U.P. Board and

A handwritten signature in black ink, appearing to read "B. S. Chauhan".

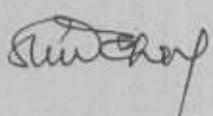
she secured 51.5% marks. That the respondent No.4 concealed this fact that she had already appeared in the High School Examination in the year 1994 then there was no justification for appearing in the Prathama Examination conducted by the Hindi Sahitya Sammelon, Allahabad in the year 2006. Learned counsel for the applicant also cited and produced notification issued by the Uttranchal Govt. as well as by Govt. of Uttar Pradesh to the effect that Prathama examination conducted by the Hindi Sahitya Sammelon is not equivalent to High School and it is not a recognized institute that the respondents committed illegality in giving weightage to the Prathama Examination conducted by the Hindu Sahitya Sammelon, Allahabad as it is not a recognized institute and hence respondent No.4 had illegally been selected. Annexure-7 is the letter of the Govt. of Uttranchal dated 24th October, 2002 and in this letter it has been specifically alleged that the examination of Prathama conducted by the Hindi Sahitya Sammelon, U.P., Allahabad is not equivalent to High School/Intermediate. Learned counsel for the applicant also produced a letter issued by the Govt. of Uttar Pradesh on dated 30th April, 2009 and in this letter it has



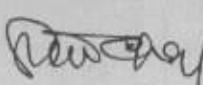
been specifically stated that the Govt. of Uttar Pradesh has not recognized the Prathama and Madhyama and other higher examination conducted by the Hindi Sahitya Sammelon as equivalent to High School or Intermediate or any other equivalent certificate. On the strength of those documents learned counsel for the applicant argued that as Prathama certificate issued by Hindi Sahitya Sammelon was not recognized as equivalent to High School hence it was wrong to allege that Smt. Bandana Thapaliyal secured more marks than the applicant in the equivalent examination. The fact is that Smt. Bandana Thapaliyal appeared in the High School examination in year 1994 and she secured 51.5% marks in the High School whereas, the applicant appeared in the High School examination of U.P. Board in the year 1999 and he secured 59.5% marks. And that the marks obtained by the applicant in the High School Examination were much more in comparison to the marks obtained by respondent No.4 and hence applicant was entitled to be appointed on the post of G.D.S.B.P.M.. The respondents committed illegality in issuing the appointment letter to the respondent No.4 on the basis of Prathama certificate

issued by the Hindi Sahitya Sammelon, Allahabad, because the Prathama was not recognized by the Govt. of Uttranchal and by the Govt. of Uttar Pradesh and respondent No.4 had concealed this fact that she had appeared in the High School examination in the year 1994. That as the applicant was more deserving candidate among all the candidates hence he ought to have been appointed and appointment letter of the respondent No.4 deserves to be quashed.

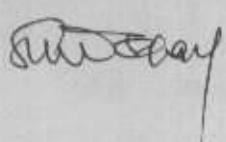
6. Learned counsel for the respondents argued that the respondents is the Organization of the Govt. of India and they are to be governed by the notification issued by the Govt. of India. That the Ministry of Communication and I.T. department of Post issued a notification on dated 09th August, 2006 and in this notification there is a reference of notification No. 24-4/01 dated 14th May, 2004. In view of this notification dated 14th May, 2004 it has been provided that Govt. of India has decided to recognize the Prathama examination conducted by the Hindi Shitya Sammelon, Allahabad for the purpose of the employment under the Central Government for the post for which the desired



qualification is pass in matriculation for further period of 27th July, 2004 to 27th July, 2007 and learned counsel for the respondents argued that the recognition was for a period of three years and on the date when the notification was issued on dated 22nd February, 2007 the recognition of the Govt. of Indian was valid and in existence and the respondents are to be governed by the notification issued by the Govt. of India. That this notification issued on 14th May, 2004 was issued by the Ministry of Human resource and development (department of Secondary & Higher Education) and the respondents are bound to apply this notification. And it has been specifically provided in the notification dated 14th May, 2004 that Govt. of India has decided to recognize the Prathama examination conducted by the Hindi Shitya Sammelon, Allahabad for the purpose of the employment under the Central Government for the post for which the desired qualification is pass in matriculation for further period of three years. Hence it cannot be said that the respondents have acted illegally in placing reliance on the Prathama certificate issued by the Hindu Sahitya Sammelon. When the Govt. of India had issued a



notification that the Prathama is equivalent hence there was no option for the respondents except to recognize the certificate issued by the Hindi Sahitya Sammelon as equivalent to High School. It might be possible that the respondent No.4 appeared in the High School examination conducted by the U. P. Board in the year 1994 and she secured only 51.5% marks, but it has not been stated that if a person appeared in the High School examination then he will be barred from appearing in the equivalent examination, but one who appeared in the High School examination he may also appear subsequently in the equivalent examination. Learned counsel for the applicant argued that a man of ordinary prudence is not expected that when he has appeared in the High School examination will appear in the equivalent examination subsequently. Learned counsel for the applicant tried to show that the notification issued in order to fill up the post on 22nd February, 2007 and the certificate of Prathama was obtained in the year 2006 and it may be possible that this certificate has been obtained fraudulently to show high percentage of marks, I will not be able to make any comment on this point and it is a conjecture and surmises of the



applicant. Proper inquiry was conducted by the respondents about the validity and genuineness of the certificate of the Prathama and it was found that the certificate of Prathama is genuine one and there is notification of the Govt. of India treating the Prathama certificate issued by the Hindi Sahitya Sammelon as equivalent to High School, hence cannot be said that the respondent committed illegality. As according to Prathama certificate respondent No.4 secured 66% marks and it was equivalent to High School whereas, the applicant in the High School secured 59.5% marks hence the marks secured by the respondent No.4 were much more than the applicant and hence the respondents rightly selected the respondent No.4 and it cannot be said the illegal appointment has been made of the respondent No.4.

7. For the reasons mentioned above we are of the opinion that the appointment of respondent No.4 has been made as per rules and it is valid and as Smt. Bandana Thapaliyal secured more marks in the equivalent examination in comparison to the applicant hence the respondents cannot be said to have acted

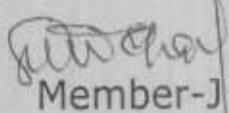
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illegally in making her appointment. O.A. deserves to be dismissed and the applicant is not entitled for any relief.

8. O.A. is dismissed. No order as to costs.

Member-A

/Dev/


Member-J

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