

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.631/98

Cuttack, this the 23rd day of January, 2004

Dillip Kumar Dash

Applicant

Vrs.

Union of India & Others

Respondent

FOR INSTRUCTIONS

(1) Whether it be referred to the Respondents or not? Yes
 (2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes

M.R. Mohanty
23/01/2004
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Sompalli
(B.N. SOMPALLI)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.631/98

Cuttack, this the 23rd day of January, 2004

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

&

HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Dillip kumar Das, Village-Panichhatra, P.O.-Khaira, Dist-Balasore Applicant.

By the Advocate(s) Mr. D.P. Dhalsamant
-Vrs-

1. Union of India, represented through the Director General, Posts, Government of India, New Delhi-110066.
2. Chief Post Master General, Orissa Circle, Bhubaneswar-1.
3. Superintendent of Post Offices, Balasore Division, Balasore.
4. Superintendent of Post Offices, Bhadrak Division, Bhadrak.

..... Respondent(s)

By the advocate(s) Mr.A.K. Bose, ASC

ORDRE

SHRI B.N. SOM, VICE-CHAIRMAN:Shri Dillip Kumar Dash, has filed this O.A. praying for direction to be issued to the Respondent No.2 to consider his application for recruitment to the cadre of Postal Assistant for the year 1995 and also to pay the cost of the application to him.

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2. The applicant had applied for the post of Postal Assistant in the direct recruitment quota for the year 1995 in response to an advertisement issued by the Respondent No.1 in this regard. It was notified by the Respondent No.1 (as a part of the selection process) through his letter No.60-36/93-SPB.I that the candidates would be awarded 5 marks for data entry qualification in computer on production of a certificate from a recognized institute. The applicant was called upon to appear at the written test, type test and computer test. The tests were held on 04.02.1997. The applicant was allowed to take the written test and the typing test but not the test on computer on the ground that the certificate produced by the applicant about his qualification on data entry in computer had not been obtained from any of the institutions recognized for this purpose by the Respondents Department. The applicant's grievance is that the certificate issued by the same institute (Bureau of Data Processing Systems), Kothekh Bhavan, Dadar, Bombay-14 had been entertained by Respondent No.4, a recruiting unit under Respondent No.2. The grievance of the applicant is that it was incorrect on the part of the Respondent No.2 to reject the computer qualification certificate submitted by the applicant from an authorized institution, where the Rules as circulated by Respondent No.1 by

his letter dt.28.02.1995 Annexure-2 permits as follows:-

“Another 5 marks would be awarded to a candidate for data entry qualification in computers provided he produces a certificate from a concerned coaching institute.”

3. He has therefore alleged that the action of the Respondent No.2 in rejecting his candidature on the said ground was arbitrary, illegal and discriminatory in nature.

4. The Respondents have contested the O.A. They have stated that the facts of the case are that the applicant is serving as E.D. Agents who by virtue of a notification issued by Respondent No.3 dt.26.06.96 was called upon to apply for the post of Postal Assistant against unfilled Departmental quota vacancies belonging to the year 1995. In response to the above notification (Annexure-R/2) 16 ED Agents had applied for the said post. The Respondents have stated that as the applicant could not submit a certificate regarding computer qualification from an institution recognized by the Respondent Department, he was not considered eligible for taking computer test. They have stoutly refuted the statement made by the applicant that the certificate issued by the Bureau of Data Processing Systems was not considered valid by the Respondent No.3 where as the same was accepted as valid by Respondent No.4.

Q/V

5. We have heard Counsels for the rival parties and also perused the records placed before us.

6. The short question to be answered in this case is whether the decision of Respondent No.3 in debaring the applicant from taking test on data entry skill on the ground that he had not produced the qualification certificate from one of the institutions recognized by the Respondent No.1 is sustainable in the eye of law. The decision of Respondent No.3 has been assailed by the applicant on the ground that as per the circular dated 28.02.95 (Annexure-2) his application was complete in all respects as he had submitted the computer education certificate "from a concerned coaching Institute" as per the condition in the vacancy circular dt. 28.02.95. The Respondents, on the other hand, have submitted that the instructions issued by the Respondent No.1 in his letter dated 28.02.95 were amended by issuing another letter dated 29.02.96 with regard to the conditions for considering candidates for typing and computer test. According to the revised condition the candidates were asked to produce certificate of knowledge of data entry operations only from one of the seven institutes listed in that letter. As the name of the institute from where the applicant secured his certificate was not included in the list recognized by the Respondent No.1 he was not called for computer test.

7. We have perused the circulars dt. 28.02.95 & 29.02.96 issued by the Respondent No.1. On a close scrutiny of these instructions issued by Respondent No.1 regarding the method of preparing merit of list the following picture emerges. In his letter dt. 28.02.95 Respondent No.1 had laid down at para 2(i) (c) that 5 marks would be awarded to a candidate merely on production of certificate from a 'concerned coaching institute'. (emphasis supplied). There was no further condition of taking computer test of the candidate for awarding him marks for computer qualification. The method of selection as given in the said letter on February, 1995 was as follows:-

2 "(i)The merit list will be prepared on the basis of marks obtained by the candidates in aggregate after calculating the same in the following manner:-

- (a) the marks obtained by the candidates in 10+2/12th class examination will be given 40% weightage.
- (b) 5 marks would be given for knowledge of typing at the minimum speed of 30 w.p.m provided the candidate produces a certificate to that effect from the coaching institute.
- (c) Another 5 marks would be awarded to a candidate for data entry qualification in computer provided he produces a certificate from a concerned coaching institute.
- (d) A merit list of all the candidates on the basis of the above 3 components would be prepared and 5 times the number of vacancies, the candidates would be called for objective type test as well as for the interview.

3. At the end, a select list of the candidate will be prepared in the descending order of merit by totaling the marks obtained by the candidate in all the component as discussed above." This procedure was to be followed for recruitment to Postal Assistant/Sorting Assistant cadre with effect from 01.01.1995."

8. The Respondents in their counter have stated as we/observed earlier ^{Law} that the certificate submitted by the applicant regarding data entry qualification was not taken into account as the institute, called 'Bureau of Data Processing Systems', was not a recognized institution as per instructions contained in the letter dt. 29.02.96 (Annexure-R/3). It reveals that by issuing this letter dated 29.02.96 (Annexure-R/3) the Respondent No.1 has laid down the procedure regarding awarding of /holding of marks /test for typing and computer tests. At Para-I (a) it is stated that if a candidate would produce a certificate of knowledge of data entry operations from any of the 7 institutions listed in that letter he will be entitled to 5 marks for possessing the qualification of data entry. By means of this instruction it amended the provisions laid down in this regard at para 2(i) (c) of his letter dt. 28.02.95. Alternatively, it provided that those candidates who cannot produce certificate from any of those 7 institutions will have to appear in a test and these candidates who will be declared pass in this test

will be allotted 5 marks. For the sake of convenience we reproduce below an extract from that letter.

"To

All Chief Postmasters General,
All Postmasters General,
Director, Postal Staff College, Gaziabad(UP),
Controller, Foreign Mails, Bombay,
Chief General Manager, PLL, New Delhi,
Principals, Postal Training Centres.

Sub:- Direct Recruitment to the cadre of Postal/Sorting Assistants –
Change in the procedure Clarifications regarding Typing and
Computer Test.

Sir,

I am directed to refer to this office letters of even number dated 28th February, 1995 and dated 4.7.95 on the above subject. A number of Circles have sought clarifications on the syllabus and methodology for the test for data entry as well as the typing test. The matter has been carefully considered in the Directorate and it has been decided as follows:-

I. QUALIFICATIONS/TEST FOR DATA ENTRY:

(a) The candidate should produce a certificate of knowledge of data entry operations from any of the recognized institutes which are given below. The production of certificate will entitle the candidate to 5 (five marks for possessing the qualification of data entry on computers with respect to para 2(i) (c) of this office memo of even number dated 28.02.95

- (1) Apple Industries Ltd. (APTECH)
- (2) Computer Maintenance Corporation (CMC)
- (3) A Division of NIIT., Ltd.
- (4) Computer Education Centre (CEC).
- (5) UPTON-ACL

(6) Digital

(7) Indian Education Centre (IEC)

OR

(b) Divisional Superintendents should co-opt a technically qualified person from any of the above cited institutes to conduct a test (on such charges as may be payable for the same). If it is necessary for this purpose to conduct a test at centrally located towns, this may be done for more than one division at such a center. Such candidates as are declared passed in this test will be allotted 5 (five) marks as in para (a) above."

9. From the above it is clear that the instruction as contained in Annexure R-3 was wrongly applied by the Respondent No.2,3 & 4 in scrutinizing the candidature of the applicant. The revised instructions had catered for two types of situations where a candidate may produce a certificate from any of the 7 instructions recognized by Respondent No.1 and then there may be others who may not have obtained certificates from these institutions. In case of those who produce certificates from non-recognised (by Respondent No.1) institution(s) will be called to appear for a computer test to claim 5 marks for possessing qualification on data entry in computer. But the Respondent No.3 by denying the applicant to appear in computer test had clearly violated the instructions issued vide Annexure R-3.

10. In view of the above laid down procedure for awarding marks for data entry on computer qualification we have no doubt that debarring the applicant from appearing in the computer test was a decision taken

without authority and in violation of the circular dt.29.02.1996 and therefore the same has to be set aside. We order accordingly. We, therefore, direct that the Respondent No.2 and 3 to take action to hold a computer test in respect of this applicant within a period of 90 days from the receipt of this order and award him marks as per the procedure laid down in the circular dt. 29.2.1996. If by virtue of his performance in the computer test the applicant is now found eligible to have been called for objective type test, they should conduct an objective type test for him and call him before the Selection Board to be held for this purpose in terms of para 2(ii) of the circular 28.02.95 and then if the candidate finds a place in the merit list for appointment, action should be taken to offer him appointment as a direct recruitment candidate for the year 1995 with all consequential benefits.

M.R. Mohanty
23/01/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Sasmal
(B.N. SASMAL)
VICE-CHAIRMAN