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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.120 OF 2012

Cuttack this the 20th day of June, 2017

Brajendralal Singh. ...Applicant

-VERSUS-

Union of India &Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? ✓


(R.C.MISRA)
MEMBER(A)


(A.K.PATNIK)
MEMBER(J)

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HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Brajendralal Singh, aged about 44 years, S/o. late Gobinda Chandra Singh, working as G.D.S.M.D., Govindapur Branch Post Office, Gobindapur – presently working as ABranch Post Master incharge, Kantibaio, PS-Pipili, Dist-Puri

....Applicant

By the Advocate(s)-Mr.S.Patra-1

-VERSUS-

Union of India represented through:

1. The Director General, Department of Posts, Ministry of Communication, Govt. of India, Dak Bhawan, New Delhi-110 001
2. The Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
3. The Director, Postal Services (HQ), Office of Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
4. Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, Dist-Khurda-751 001

...Respondents

By the Advocate(s)-Mr.S.Behera

ORDER

A.K.PATNAIK, MEMBER(J):

In this Original Application under Section 19 of the

A.T.Act, 1985, the applicant has prayed for the following relief.

- i) Order dated 2.1.2012 under Annexure-A/4 be quashed.

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- ii) Respondents be directed to give 22 marks grace in Mathematics (Paper-b).
- iii) Respondents be directed to give promotion to the applicant to the post of Postman/Mail Guard w.e.f. the date of others were promoted with all benefits.
- iv) And any order/orders be passed to give complete relief to the applicant.

2. Shortly stated, facts of the matter are that the applicant while working as GDSMD, Govindpur Branch Post Office had appeared at the departmental examination for promotion to Postman cadre against the vacancy year 2009-10. After publication of the results, he could come to know that even though he had secured 101 marks out of total 150 marks, still then he was not selected whereas candidates securing less marks than what he has secured have been selected and appointed. This being the position, he submitted a representation to the respondent-authorities which however, having not been considered, he moved this Tribunal by filing O.A.No.639 of 2011. This Tribunal vide order dated 23.9.2011 disposed of the said O.A. with a direction to the Respondent No.2 to consider the representation dated 20.7.2011 and pass a reasoned order as per rule under intimation to the applicant. In compliance to the aforesaid direction of this Tribunal, his representation was considered but rejected vide order dated 2.1.2012 annexed as (A/4) which is the subject matter of the instant O.A.

3. It is the case of the applicant that he had passed the HSC Examination in the year 1985 and joined service on 02.5.1998. Therefore, it was not possible on his part to compete with the freshers and that's why he should have been considered against one of vacancies after being granted grace marks.

4. The Respondents have filed their reply statement opposing the prayer of the applicant. They have submitted that the present O.A. being devoid of merit is liable to be rejected.

5. We have heard the learned counsel for both the sides and perused the materials placed on records. For the sake of clarity, the points urged by the applicant vis-à-vis the consideration given by the authorities in the speaking order dated 02.01.2012 issued in pursuance of the direction of this Tribunal in the earlier O.A., are quoted hereunder.

"The applicant has contended that:

- i) The question No.1-A and 4 of Paper-B of the said examination was out of course and Question No.6 in Oriya medium was wrong. So he could not give satisfactory answer though he had done well in other two papers.
- ii) The list of successful candidates was notified but individual marks were not indicated in the list.
- iii) He has rendered more than 16 years of service after passing HSF Examination and it was difficult on his part to compete with freshers.

It is observed that the contention of the applicant regarding setting of question wrongly in Paper-B is incorrect.

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Nosuchallegation has been made byanyother candidate of the said examination. On the other hand, it is found that the questions were as per syllabus prescribed by the Department. The applicant has secured only 9 marks as per the answers given byhim in Paper-B against full marks of 50 and pass marks of 45%, i.e., 22.5. The candidates securing pass marks in individual papers and highest in aggregate have been declared qualified according to community-wise vacancy. No candidate securing less marks than the applicant has been promoted to the post of Postman. The applicant has been supplied with the copies of answer sheets of all the papers of the said examination with reference to applications made under RTI Act. He has been made aware of the particulars of marks secured by him. It is found that no irregularity has been committed in conducting the examination and declaring the result. The successful candidate are selected on the basis of the performance in the competitive examination. Shri B.L.Singhhas to compete with others onequal grounds. The grounds on which theapplicant has sought for grace marks were found not tenable.


In view of the above, I find no merit in the representation of the applicant and hence, rejected it accordingly”.

6. A bare perusal of the speaking order leads us to a conclusion that there has been due application of mind by the authorities therein inasmuch as the applicant, nowhere in the O.A. has assailed any of the points so considered nor has he been able to adduce any cogent reason as to how the said order does not stand to judicial scrutiny. In view of this, we are of the opinion that the speaking order dated 2.1.2013 annexed under

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(A/4) as passed by the respondents as a measure compliance of the orders of this Tribunal in O.A.No.639/2011 holds good.

7. For the reasons mentioned above, we hold that the applicant has not been able to make out a case for the relief sought for in this O.A. Accordingly, the O.A. being devoid of merit is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNIK)
MEMBER(J)