

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
OA NO. 352 OF 1996

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman  
Hon'ble Mr. M. S. Mukherjee, Member (A)

Pushpa Kumari Prasad,  
Qr. T-III/2, ATI Campus,  
P.O. Dasnagar, Howrah-711 105

VS

1. Union of India through the  
Secretary, Ministry of Communication,  
Dak Bhavan, New Delhi-1
2. Chief Post Master General <  
W.B. Circle,  
Yogayog Bhavan,  
P-36, C.R.Avenue, Calcutta-12
3. The Post Master General <  
South Bengal Region, Yogayog Bhavan,  
P-36, C.R.Avenue, Calcutta-12
4. Sr. Superintendent, RMS,  
'SB' Division, Howrah-711 101

..... Respondents

For the petitioner : Dr. R.G.Ram, Counsel

For the respondents : Ms. B.Roy, Counsel

Heard on : 13.8.97 : Order on : ~~29.8.97~~ 1-9-1997

ORDER

M.S.Mukherjee, A.M.:

This is a petition u/s 19 of the Administrative Tribunals Act, 1985, in which the petitioner is aggrieved that despite her being duly selected for appointment as Sorting Assistant in Railway Mail Service (SB Division), Howrah and she being given formal offer of appointment, the said appointment offer has been illegally and arbitrarily cancelled by the respondents through their impugned letter dt. 26.9.95 issued by the Superintendent, RMS (SB Division), Howrah (Annexure-C to the petition).

2. In response to an advertisement of the respondents published in the daily newspaper Ananda Bazar Patrika on 2.4.94, the petitioner applied for the post of Sorting Assistant in the RMS (SB Division) Howrah. The petitioner

submits that she possessed all the qualifications prescribed for such appointment. The respondents thereafter, on considering various applicants' particulars, selected the petitioner for one such post and this was duly communicated to the petitioner by respondent No. 4 by his letter dt. 13.9.94 (Annexure-A to the petition). It was communicated through the said letter that the petitioner had been selected provisionally for appointment as Sorting Assistant in that division provided her name had been registered with the employment exchange and such provisional appointment was subject to verification of the character and antecedents, mark sheets and employment exchange card, date of birth etc. regarding the petitioner. The petitioner thereafter duly submitted all her documents before the respondents on 15.9.94 and against a formal receipt, a copy of which is added as Annexure-B to the petition. Thereafter, the petitioner did not hear anything further from the respondents regarding the offer of appointment and she claims to have made oral representations several times personally but to no effect. Eventually, the respondent No. 4 by his letter dt. 26.9.95 (Annexure-C) conveyed to the petitioner that after careful consideration of her case by the selection Board, her selection for the above mentioned post was thereby treated as cancelled.

3. The petitioner has challenged this communication on the ground that it is a non-speaking one and arbitrary and she has prayed for quashing the said impugned communication and for a direction on the respondents to offer her the job in pursuance of the earlier offer of appointment dt. 13.9.94 from the date of that offer and pay her admissible pay and allowances for the intervening period when she had been prevented from joining the post.

4. The respondents have contested the case by filing a

written reply. They concede that the petitioner was amongst the various candidates who had applied for the post and that a 3-Member selection board of the then composition after duly considering the relative merits of all the candidates, had provisionally selected the petitioner for the job and that the respondents had intimated the petitioner by their letter dt. 13.9.94 about her provisional selection. However, before the petitioner could <sup>actually</sup> join the post, complaint had been received on 8.9.94 from the <sup>^</sup> local Secretary of the service union alleging certain irregularities in the recruitment of Sorting Assistants cadre against vacancies for 1993. Thereafter, the Post Master General by his order dt. 31.10.94 constituted a fresh selection committee consisting of 3 new members for reviewing the selection already made. That review committee felt that the petitioner did not possess the requisite academic qualifications for the post as she had passed the SS examination and Degree Course from the National Open School and Indira Gandhi Open University, New Delhi which are both correspondence courses. Therefore, the petitioner had been informed of the decision of the review committee through the impugned letter dt. 26.9.95 that her previous selection for the post had been cancelled.

5. We have heard the learned counsel for the parties and have gone through the documents. The respondents have produced before us the minutes of the review committee and the petitioner also has produced certain documents regarding the recognition of the Degree and Diploma obtained by her. We have also considered the same.


6. First regarding the minimum prescribed academic qualification for the post of Sorting Assistant, the petitioner has submitted that as per the advertisement, the said qualifications had been prescribed as that the candidate should be a qualified student from any Board or recognised

University showing qualified as 10 plus 2 and that selection of the candidates would be based upon securing higher marks in order of preference and in case a candidate was Graduate in Commerce, Arts or Science from a recognised University, 10 marks would be added as bonus marks.

7. The respondents have not contested this as the minimum requisite educational qualification and therefore it follows that amongst the candidates, who possessed the minimum academic qualification, the selection would be made in order of merit on the basis of marks obtained with weightage being given to those who had obtained a degree in arts, commerce or science.

8. Now the petitioner was initially selected because of her ranking on the basis of marks obtained and she was also communicated about her provisional selection by the authorities accordingly. However, the review committee did not consider her academically eligible at all on the ground that she had passed the SS examination and degree course from National Open School and Indira Gandhi National Open University, New Delhi respectively which are both correspondence courses.

9. We feel disconcerted that the review committee while reviewing the cases and the previous selection of the petitioner, did not even bother~~ed~~<sup>d</sup> to verify whether the examinations passed by the petitioner were really recognised or not. They went merely by their own general assumption. In the course of hearing, the learned counsel for the petitioner has produced before us a notification issued by the University Grants Commission (UGC) through a reference No. F.1-8/92(CPP) in February 1992 which shows that the certificates, diplomas and degrees awarded by the Indira Gandhi National Open University are to be treated as equivalent to the corresponding awards of the Universities in the country. The



learned counsel for the petitioner has also produced before us a copy of press release regarding recognition of open school examination. It has been laid down therein that the Secondary School Examination conducted under the Open School Scheme by the Central Board of Secondary Education is equivalent to its All India Secondary School Examination and Delhi Secondary School Examination and further that according to the Ministry of Home Affairs OM No. 26/4/52-CS dt. 30.9.52, no orders are required for the formal recognition of any certificate or diploma awarded by the Board of Secondary and Intermediate Education duly set up and recognised by the Central Govt. or the State Govt. concerned. It was further clarified through the said press release that regarding Open School examination conducted by the CBSE, the Ministry of Human Resource Development, Deptt. of Education, Govt. of India had informed vide letter No. F6-17/85-UI.2 dt. 18.11.85 that in accordance with the instructions issued by the MHA in their OM dt. 30.9.52, there was no need to obtain the formal recognition of the Ministry on the certificates issued by the CBSE for the examination conducted by them for open school on the secondary level as the CBSE is the Board set up by the Ministry and its examination certificates are recognised.


10. These abundantly clarify the position and we are sorry to note that the review selection committee which had been set up just because certain complaint made by some service union, dealt with the matter casually and did not verify about the admissibility of the certificates purportedly produced by the petitioner. In case they had any doubt they could have first sought for clarification from the Ministry of Human Resource Development but they chose to do nothing and went by their general assumption which is very evident from the minutes of the review committee meeting as shown to us by the learned counsel for the respondents. Moreover, while communicating

the impugned letter to the petitioner cancelling her previous selection and offer of appointment, the respondents did not even consider it necessary to indicate the reasons. It was just one sentence non-speaking communication and the petitioner was kept in the dark about the real cause for the rejection which now adjudged as without any basis.

11. Under the circumstances, we allow the petition and quash the impugned order of the respondents dt. 26.9.95 (Annexure-C to the petition). The respondents are directed to offer appointment to the petitioner to the post of Sorting Assistant on the basis of her earlier selection within 3 months from the date of communication of this order, if necessary by condoning her overage, if any.

12. We also note that the impugned communication since quashed had been made to the petitioner after more than a year after the offer of provisional appointment dt. 13.9.94. The petitioner, therefore, on her joining in the cadre should be allowed appropriate seniority on the basis of her position in the original panel and she would be treated to have notionally joined the post on the date the candidate next junior to her in the original panel had joined and her pay be fixed <sup>on her actual joining</sup> ~~notionally~~ accordingly.

13. Moreover, since the petitioner has been driven to the court of law to seek redressal of her just grievance unnecessarily because of thoughtless action of the respondents, we award a cost of Rs. 2000/- in her favour to be paid by the respondents within the aforesaid period.

  
(M.S. MUKHERJEE) 1/9/1997

MEMBER(A)

  
(A.K. CHATTERJEE)

VICE CHAIRMAN