के.प्र.प्र. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत वि: शुल्क प्रति

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

OA No.290/00074/2014
OA No.290/00075/2014
OA No.290/00076/2014
OA No.290/00078/2014
OA No.290/00079/2014
OA No.290/00343/2014 &
OA No.290/00344/2014

Jodhpur, this the 4th day of December, 2014

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Original Application No.290/00074/2014

Amjad Parvez s/o Shri Asgar Ali Pathan, aged about 35 years, resident of Ward No.23, Behind Old Police Station – Nohar, Distt. Hanumangarh (Raj)- 335523

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. Shri Rakesh Kumar s/o Shri Man Singh, Village and PO-Bhanai, Tehsil-Bhadra, Distt Hanumangarh.

...Respondents

By Advocate : Ms. K.Parveen for resp. 1 and 2
Mr. M.Choudhary for resp. No.3

Original Application No.290/00075/2014

Pawan Kumar s/o Shri Surta Ram, aged about 20 years, resident of Mirjawalimer, Tehsil-Tibi, Distt. Hanumangarh (Raj)- 335524

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. Shri Chander Shekhar s/o Shri Ram Kumar Kalyana, Village and PO-2 KSP, Tehsil-Tibi Distt. Hanumangarh

...Respondents

By Advocate : Ms. K.Parveen

Original Application No.290/00076/2014

Shankar Lal s/o Shri Ram Lal, aged about 27 years, resident of village and Post-Birkali, Tehsil-Nohar, Distt. Hanumangarh (Raj)- 335504

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. Shri Rakesh Kumar s/o Shri Hardeva Ram, Village –Janana, PO Sahuwala via Chhanibadi, Tehsil Bhadra Distt. Hanumangarh.

...Respondents

By Advocate : Ms. K.Parveen

Original Application No.290/00078/2014

Hardayal Singh s/o Shri Singharam, aged about 36 years, resident of village and post-Lalana bas Utrada, Tehsil Nohar, Distt. Hanumangarh (Raj).

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. Shri Bhajan Lal s/o Shri Kalu Ram, Village and PO-Manniwali, Tehsil-Sadulshehar, Distt. Hanumangarh.

...Respondents

By Advocate : Ms. K.Parveen

Original Application No.290/00079/2014

Ramniwas s/o Shri Rampat, aged about 33 years, resident of Village and Post-Nathwania, Tehsil Nohar, Distt. Hanumangarh (Raj)- 335504

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. Shri Vinod Kumar s/o Shri Keshu Ram, Village and PO-Bhranpura via Chahuwali, Tehsil Rawatsar, Distt. Hanumangarh.

...Respondents

By Advocate : Ms. K.Parveen for resp. 1 and 2
Mr. D.L.Motsara for resp. No.3

Original Application No.290/00343/2014

Mangeram s/o Shri Mehar Chand, aged about 22 years r/o Village-Badbirana, Tehsil-Nohar, Distt. Hanumangarh (Raj)- 335504

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. The Secretary to Govt. of India, Ministry of Human Resource Development, Deptt. Of Higher Education, Shastri Bhawan, New Delhi.

...Respondents

By Advocate : Ms. K.Parveen

Original Application No.290/00344/2014

Smt. Dayawati w/o Shri Mahaveer Prasad, aged aabout 35 years, r/o Village Badbirana, Tehsil- Nohar via Gongamedi, Distt. Hanumangarh (Raj)- 335504

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Ministry of Communications and IT, Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Superintendent of Post Offices, Sriganganagar Dn, Sriganganagar-355001.

3. The Secretary to Govt. of India, Ministry of Human Resource Development, Deptt. Of Higher Education, Shastri Bhawan, New Delhi.

...Respondents

By Advocate : Ms. K.Parveen

ORDER (ORAL)

Per Justice K.C.Joshi-

Due to similar facts and the law involved, these seven OAs are being decided by this common order.

2. In all these OAs applicants pray for direction to the respondents to consider their candidature for selection/appointment to the post of Gramin Dak Sevak Branch Post Master (GDSBPM) by treating their educational qualification as equivalent to 10th standard and thereby declare them eligible for the said post.

3. In OA No.290/00074/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 86.15% marks. He was also issued a provisional certificate dated 16.5.2013 for the same (Ann.A/2). There have been some developments with regard to recognition of the Prathama Examination and vide Ministry of Human Resource Development letter dated 10.7.2012 (Ann.A/3), the recognition was granted upto 26.10.2010. Subsequently, letter dated 10.7.2012 was cancelled vide OM dated 6.12.2012 and recognition was granted upto 31.5.2013 (Ann.A/4). The respondents issued notification dated 27.12.2013 for sponsoring names of suitable candidates for appointment as GDSBPM at Chuck Sardarpura, Accounts Office, Nohar. The applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent prior to the last date. The applicant was aspiring for his selection but the respondent No.2 has issued an order dated 6.2.2014 whereby Shri Rakesh Kumar, respondent No.3 has been given offer of appointment to the post of GDSBPM., who has attained 80% marks in Secondary Examination but nothing has been said about the applicant who has got more marks in 10th examination than respondent No.3. The applicant came to know that as the respondent

No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

4. In OA No.290/00075/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 84% marks. He was also issued a provisional certificate dated 16.5.2013 for the same (Ann.A/2). The respondents issued notification dated 27.12.2013 for sponsoring names of suitable candidates for appointment as GDSBPM at Modhunagar, Accounts Office, Rawatsar. Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent prior to the last date. The applicant was aspiring for his selection but the respondent No.2 has issued an order dated 6.2.2014 whereby Shri Chandra Shekhar, respondent No.3 has been given offer of appointment to the post of GDSBPM., who has attained 79.60% marks in Secondary Examination but nothing has been said about the applicant who has got more marks in 10th examination than respondent No.3. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

5. In OA No.290/00076/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 83.75% marks. He was also issued a provisional certificate dated 16.5.2013 for the same (Ann.A/2). The respondents issued notification dated 27.12.2013 for sponsoring names of suitable candidates for appointment as GDSBPM at Mandarpura, Accounts Office, Nohar. Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent on the last date. The applicant was aspiring for his selection but the respondent No.2 has issued an order dated 6.2.2014 whereby Shri Rakesh Kumar, respondent No.3 has been given offer of appointment to the post of GDSBPM, who has attained 85.33% marks in Secondary Examination but nothing has been said about the applicant who has got more marks in 10th examination than respondent No.3. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

6. In OA No.290/00078/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 83.75% marks. He was also issued a provisional certificate dated 16.5.2013 for the same (Ann.A/2). The respondents issued notification dated 27.12.2013 for

sponsoring names of suitable candidates for appointment as GDSBPM at Gandheli (Nohar). Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent on the last date. The applicant was aspiring for his selection but the respondent No.2 has issued an order dated 5.2.2014 whereby Shri Bhajan Lal, respondent No.3 has been given offer of appointment to the post of GDSBPM, Gandheli who has attained 75% marks in Secondary Examination but nothing has been said about the applicant who has got more marks in 10th examination than respondent No.3. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

7. In OA No.290/00079/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 86.15% marks. He was also issued a provisional certificate dated 16.5.2013 for the same (Ann.A/2). The respondents issued notification dated 27.12.2013 for sponsoring names of suitable candidates for appointment as GDSBPM at Lalaniya (Nohar). Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent on the last date. The applicant was aspiring for his selection but the respondent No.2 has issued an order dated 5.2.2014 whereby Shri Vinod Kumar,

respondent No.3 has been given offer of appointment to the post of GDSBPM, Lalaniya, who has attained 85.33% marks in Secondary Examination but nothing has been said about the applicant who has got more marks in 10th examination than respondent No.3. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

8. In OA No.290/00343/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 84.85% marks. The respondents issued notification dated 27.08.2014 for sponsoring names of suitable candidates for appointment as GDSBPM at Mokalsar, Ratanpur, Lalana, Satrana and 15 BLD under Accounts Office, Suratgarh, Ridmalsar, Gogamedi, Mandi Ghadsana and Ramsinghnagar. Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent prior to the last date. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahahad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

9. In OA No.290/00344/2014, the applicant has passed Prathama Examination (Matric Hindi Level) 2012 from Hindi Sahitya Sammelan Allahabad vide mark sheet dated 23.3.2013 and obtained 85% marks. The respondents issued notification dated 27.08.2014 for sponsoring names of suitable candidates for appointment as GDSBPM at Mokalsar, Ratanpur, Lalana, Satrana and 15 BLD under Accounts Office, Suratgarh, Ridmalsar, Gogamedi, Mandi Ghadsana and Ramsinghnagar. Applicant being eligible applied for the same and applicant's form was received in the office of 2nd respondent prior to the last date. The applicant came to know that as the respondent No.2 has got instruction from 1st respondents that the recognition of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad was only upto 26.10.2010 and the applicant has passed the said examination after the cut off date. Therefore, the applicant has filed this OA.

10. The respondents have filed reply to these OAs. The main stand taken by the respondents is that as per latest information available with the respondent Department, Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi has not issued any order/notification regarding extension of recognition of Prathama Examination conducted by the Hindi Sahitya Sammedan beyond 26.10.2010. On seeking clarification by the respondent Department as is evident from letter dated 5.7.2013 (Ann.R/1), the Ministry of Human Resource Development, Department of Higher Education, New Delhi informed that they have not issued any

order/notification regarding extension of recognition beyond 26.10.2010 and the respondents are not aware about issuing letter dated 6.12.2012 (Ann.A/4) by the Ministry of Human Resource Development, therefore, the applicants are not eligible to be considered for the posts applied for as per the latest information available with the department.

11. The counsel for the respondents during the course of arguments submitted that the issue in question in all these OAs is same, therefore, the reply filed in other cases may also be treated reply to OA No.290/00343/2014 and OA no.290/00344/2014.

12. Heard learned counsel for both the parties. The learned counsel appearing for the applicants contended that recognition to Prathama Examination conducted by Sahitya Sammelan, Allahabad was granted upto 26.10.2010 vide letter dated 10.7.2012 by the Ministry of Human Resource Development and the said letter was withdrawn vide OM dated 6.12.2012 and permanent recognition was granted to this Institution by the Ministry upto 31.5.2013. The qualification of Prathama is being accepted by other departments of the Government but the respondents have not linked the aforesaid letter dated 6.12.2012 (Ann.A/4) with their record, which is a discrepancy in the record and denial of consideration of the applicants for appointment is ex-facie illegal and cannot be sustained in the eyes of law. He further contended that the present controversy is not res-integra and the same has been recently decided by this Tribunal in OA No.290/00083/2014, OA No.290/00084/2014 & OA No.290/00085/2014 vide order dated 27.10.2014.

13. Per contra, counsel for the respondents contended that the respondents are not aware about issuance of letter dated 6.12.2012 (Ann.A/4) by the Ministry of Human Resource Development, Department of Higher Education, New Delhi and therefore, the applicants are not eligible to be considered for the posts applied for as per the latest information available with the respondent Department.

14. Considered the rival contention of both the counsels. The contention of the counsel for the respondent Department is that the OM dated 6.12.2012 is not in the knowledge of the respondent Department and therefore, the applicants are not eligible for consideration of their candidature as the recognition of Prathama Examination was not extended beyond 26.10.2010. It is not the case of respondents that the OM dated 06.12.2012, which is said to be not in the knowledge of the department, has been issued by an incompetent authority, therefore, not applicable in the instant case. On perusal of the record, it reveals that the OM dated 6.12.2012 (Ann.A/4) has been issued by the same authority, which has issued letter dated 10.07.2012 (Ann.A/3) on which the respondents are placing reliance. Therefore, we are of the considered view that the OM dated 6.12.2012 (Ann.A/4) issued by the competent authority is binding on the respondent-department and the applicants are eligible for consideration of their candidature as per the recognition extended upto 31.5.2013. Accordingly, the appointments to the post of GDSBPM, if any made, pursuance to the notification in these OAs without following the instructions issued by the Ministry of Human Resource

Development as per Ann.A/4 cannot be sustained in the eyes of law and hence are quashed and set-aside. The respondents are directed to consider candidature of the applicants as per the provisions of law on the subject, as discussed above, within a period of three months from the date of receipt of a copy of this order.

15. All the OAs stand disposed of accordingly with no order as to costs. A copy of this order be placed in all the case files.

[Meenakshi Hooja]
Administrative Member

[Justice K.C.Joshi]
Judicial Member

R/

COMPARED & CHECKED

CERTIFIED TRUE COPY
Dated 12-12-14