

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No.351 of 2006th Feb 1

Patna, this the 14 day of December, 2009

CORAM

The Hon'ble Mrs. Justice Rekha Kumari, Member(J)

The Hon'ble Mr. Sudhir Kumar, Administrative Member

Uma Kumari, D/o Sri Raghubans Kumar, at present residing at Mohalla Kidwaipuri, P&T Colony, Kidwaipuri, Qr. No. 130, Type-II, Patna.

Applicant

By Advocate Mr. J.K. Karn

versus

1. The Union of India, through the Secretary-cum-D.G., Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Director of Postal Services, O/o the Chief Postmaster General, Patna.
4. The Asstt. Director (Staff & Rectt), O/o the Chief Postmaster General, Bihar Circle, Patna.
5. The Superintendent of Post Offices, RMS P Division, Patna.
6. Sanjeev Mishra, Roll No.P-21 of the "Result for PA/SA Examination issued by the Chief Postmaster General, Bihar Circle, Patna published in the Daily Newspaper "The Times of India", 24th March issue of Patna Edition, as contained in Annexure-A/7, through the Chief Postmaster General, Bihar Circle, Patna.
7. Sri Vikrant Kumar, Roll No.68, through the Chief Postmaster General, Bihar Circle, Patna.

Respondents

By Advocate Mr. P.R. Laxmi

ORDER

JUSTICE REKHA KUMARI, MEMBER (J):- The applicant in this OA has prayed that the result of PA/SA Examination published by the Chief Post Master General, Bihar Circle, Patna (Annexure-A/6) be quashed and the respondents be directed to declare result by preparing one combined common select list and thereafter to assign the candidates

their respective divisions according to their application or by giving them option for the same.

2. The case of the applicant is that an advertisement was issued on 23.06.2003 for filling up 215 post of PAs/SAs. The candidates were asked to apply for the posts division-wise. The applicant submitted four separate applications against the post of Muzaffarpur, Samastipur, Gaya and Patna against unreserved category. She had secured high marks in Intermediate Examination. She was also trained in Computer and Typing. She belongs to OBC Community but as she had a brilliant academic qualification, she chose not to get the facility of the policy of reservation. As the vacancies were notified, it may be expected that division-wise selection would be made by conducting separate examinations for each division. The Postal Department issued admit cards to the intending candidates division-wise. The applicant learnt that a merit list was prepared as per marks obtained in academic examination and 14 times of the vacancies were issued admit cards to appear in the selection examination. The candidates were under the impression that there would be separate examinations for each division but those who had submitted several applications were asked by the Department to choose their application for only one division, as there would be one single examination on one fixed date for all the posts or all the divisions. All the posts of different divisions were amalgamated for the purpose of conducting one common combined examination

consisting of three phases typing and computer test, aptitude test and interview. The applicant chose Patna 'P' Division. She appeared for typing and computer test on 16.07.2005, for aptitude test on 17.07.2005 and for interview between 18.07.2005 to 20.07.2005. All the candidates were subjected to a combined test/examination but the result was published division-wise. No common list was prepared, rather division-wise list/panel was prepared (Annexure-A/6).

3. The further case of the applicant is that there was large scale bungling in the Postal Department. The father of the applicant is a Group 'D' employee and he learnt that all the three candidates shown successful against the unreserved posts, were sons of officials of Postal Department and despite securing lesser marks in Intermediate Examination, they were declared successful. The applicant hence approached the office of the Superintendent, RMS 'P' Division, Patna and then the office of CPMG and requested supply of information about the select list of 91 unreserved candidates along with the total marks assigned to them as well as total marks obtained by her, but the same was denied to by saying that there was no rule to supply marks.

4. The case of the applicant is that fair play and equity demanded that the respondents would prepare and publish a common result of all the candidates for all the divisions, but a division-wise select list was prepared, as a result, a candidate securing higher marks has been left out of the list of successful candidates, as she had opted for a division

having more vacancy and more number of candidates, whereas a candidate, who has secured lesser marks in the same examination, has been declared successful in the examination having opted for a division having less vacancy and the candidates for those vacancies being fewer.

5. It is also her case that a division-wise selection of candidate is violative of articles 14 and 16 of the Constitution.

6. The respondents have filed written statement. Their case, inter alia, is that applications were invited for 183 vacancies of Postal Assistant/sorting Assistant in different divisions/units of Bihar Circle and not 215 vacancies. The vacancies were advertised centrally from the office of the CPMG, Bihar Circle, Patna. All the eligible candidates were requested to submit their application in the format published in the Employment News and as the examination was to be conducted centrally on a particular date with the same questions for all divisions, the candidates were directed to choose their own division. The candidates have chosen their division as per their choice. The applicant had preferred 'P' Division, Patna. There were many common candidates, so for verification of marks were taken up 14 times of the vacancies. Accordingly, Admit Cards were issued on the basis of the total marks, 40% weightage of marks of ten plus two examination and marks at typing/computer, a merit list was prepared and candidates five times the vacancies from the above merit list were allowed to appear

in aptitude test. The candidates who had received several admit cards from different divisions were asked to choose one division from where they liked to appear at the aptitude test so that the large number ^{of} same candidates having their names from other divisions be eliminated. The applicant had chosen Patna Division but she did not come in the merit list of the said division and so she was not selected. She had no relation with the selection of candidates in other divisions. It is also said that the final selection list had been prepared on the basis of 40% weightage of 10+2 Examination plus marks obtained in Type Test, Computer Test, Aptitude Test and Interview. The candidates were permitted to appear in all the test division wise and, accordingly, the result has been published for the respective divisions. It is also their case that the applicant is a daughter of a Group 'D' employee in RMS P Division but it is not true that the merit list had been prepared on the basis of relationship of selected candidates with Postal employees.

7. The contention of the respondents, therefore, is that the OA has no merit and is fit to be dismissed.

8. Learned Counsel for both sides were heard.

9. The learned Counsel for the applicant submitted that recruitment based on division-wise is discriminatory and not permissible. In support of his submissions, he relied on the decision of the Supreme Court in the case of Radhey Shyam Singh v. Union of India & others,

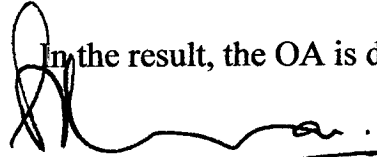
AIR 1997 SC 1610.

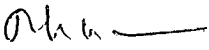
10. The learned Counsel for the respondents supported the method of selection.

11. Though according to the decision of the Supreme Court in the case of Radhey Shyam Singh (supra) zone-wise recruitment gives rise to discrimination, the applicant took part in the recruitment process without any protest. Therefore, only because she did not succeed, she cannot now turn round ^{and appeal} the method of selection. In the case of Madan Lal v. State of Jammu & Kashmir, AIR 1995 SC 1088, which has been followed in Dhananjay Malik v. State of Uttranchal, 2008 (3) PLJR 272 (SC) and in other cases, the Supreme Court has held that if a candidate takes a calculated chance and appears at the interview, then only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of selection was unfair.

12. In view of the decisions of the Supreme Court, the applicant cannot challenge the method of recruitment. There is also no sufficient ground that there has been bungling. Only because some relatives of Postal employees succeeded, it cannot be a case of favouritism.

13. In the result, the OA is dismissed. No costs.


(SUDHIR KUMAR)
Member(A)


(REKHA KUMARI)
Member(J)