

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 616 of 2004

Jabalpur, this the 17th day of December 2004

Hon'ble Shri M.P. Singh, Vice Chairman,
Hon'ble Shri Madan Mohan, Judicial Member

Murarilal Rautel, S/o. Shri Goralal
Rautel, aged about 40 years, R/o. Village
Pipariyakala (Barhi),
District Katni (MP). Applicant

(By Advocate - Shri M.K. Agrawal)

V e r s u s

1. Union of India, through Secretary,
Department of Post & Telegraph,
Dak Bhawan, New Delhi.
2. Post Master General,
Chhattisgarh, Raipur (CG).
3. Senior Superintendent of Post Offices,
Civil Lines, Jabalpur (MP). ... Respondents

(By Advocate – Shri S.P. Singh)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“(ii) to issue a appropriate writ, order or direction in favour of the applicant against the respondents to quash the show cause notice dated 27.2.2004 (Annexure A-3) passed by the respondent No. 2,

(iii) to issue a appropriate writ, order or direction in favour of the applicant against the respondents to allow the applicant to hold the post of Branch Post Master at Pipariyakala (Barhi) District Katni,

(vi) to issue an appropriate writ, order or direction against the respondents to quash the order of termination dated 7.7.2004 issued by the respondent No. 2 submitted by the respondents with



their return as R/1 addressed to the respondent No. 3 is arbitrary, erroneous, illegal and oppose to law.”

2. The brief facts of the case are that the respondent No. 3 invited application through employment offices of Jabalpur/Katni for the post of Branch Post Master at Pipariyakala (Barhi) from the candidates belonging to the Schedule Tribe. The applicant and 2 other persons have applied for the aforesaid post. The applicant having minimum requisite qualification for the said post was selected later on, after due selection. He joined his duties on 16.6.2003. The applicant worked at Pipariyakala for more than 8 months and thereafter he was issued a show cause notice mentioning that the selection process was not properly conducted because in the selection proceedings at least 3 effective candidates should participate. As per the notice of the respondent No. 2 in the selection process instead of three, two effective candidates participated and the third candidate has not completed his 18 years of age. The applicant replied to the show cause notice. The applicant was sent for training from time to time. The applicant is still holding the post of Branch Post Master. He has never been served the order of termination dated 7.7.2004 issued by the respondent No. 2. The applicant came to know about the same first time when the respondents have submitted their return and filed the copy of the order with their return as Annexure R-1. Hence, the order passed by the respondents is illegal and the same is liable to be quashed and set aside.

3. Heard the learned counsel for both the parties and perused the records carefully.

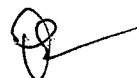
4. It is argued on behalf of the applicant that since he was eligible and had the requisite qualification for the alleged post, he has applied for the same. He submitted all the required documents which were necessary and he has not concealed any facts and has also not given any wrong informations to the respondents. The applicant was duly selected and he joined the services on 16.6.2003 and continuously worked on the said



post and there was nothing adverse against his work, conduct and integrity through out his service tenure. When the applicant received the show cause notice with the fact that the selection process was not properly conducted, he replied to it and thereafter the respondents vide order dated 7.7.2004 (Annexure R-1) has terminated the services of the applicant. If any mistake or error is committed by the respondents while conducting the selection process, then the applicant should not be penalized for the same. Hence, he is entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that it was found that the selection was not made strictly according to the rules. As per circular dated 27.11.1997, before issuing/conducting the selection process 3 effective applications must be received either from employment exchange or from the open market. In the instant case only two effective applications were received and the third application was not effective as the candidate was below the age of 18 years and as per the said circular the notification was required to be issued again but the same has not been followed by the then selection committee. Hence, the CPMG, Chhattisgarh directed to cancel the selection/appointment of the applicant being illegal and contrary to the circular issued by the Postal Director. A show cause notice was issued to the applicant and the applicant submitted his representation. On careful consideration of the facts and circumstances of the case of the applicant, the CPMG, Chhattisgarh, found that the appointment of the applicant was not made in accordance with the rules. Hence, the appointment was cancelled vide order dated 7.7.2004 (Annexure R-1). The respondents have rectified the mistake committed in the selection process.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applications were invited through the employment exchange of Jabalpur/Katni for the post of Branch Postmaster at Pipariyakala from the candidates belonging to Scheduled Tribe vide advertisement dated 21.4.2003. The applicant was possessing



all the requisite qualifications, therefore, applied for the said post and after due selection he was selected and later joined at Pipariyakala. He worked there for about 8 months. After this the respondents have issued a show cause notice on 27.2.2004 in which it was mentioned that the selection process was not properly conducted, as three effective applications must have been received either from the employment exchange or from the open market. In the instant case the third candidate was below 18 years of age, hence this selection process was not in accordance with the circular issued by the Directorate. The notification was required to be issued again but the same has not been followed by the then selection committee. For the selection process made by the respondents the applicant is not at all at any fault as he did not conceal any fact and he had also not furnished any wrong informations to the respondents at any point of time. He simply followed and obeyed the orders of the respondents. As per the interim order passed by this Tribunal on 30.7.2004 the applicant is still in service. For any mistake or omission committed by the respondents the apphcant cannot be penalized in any way.

7. Hence, after considering all the facts and circumstances of the case we are of the considered opinion that the Original Application deserves to be allowed and thereby the show cause notice dated 27.2.2004 (Annexure A-3) and order dated 7.7.2004 (Annexure R-1) are quashed and set aside. The applicant shall not be entitled for any backwages. No order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

“SA”

पृष्ठांकन सं. ओ/वरा.....जलपुर, दि.....

सचिव, न्यायिक आयोग, जलपुर

(1) सचिव, न्यायिक आयोग, जलपुर, जलपुर

(2) अध्यक्ष श्री/..... के कार्यालय

(3) प्रत्यक्ष श्री/..... के कार्यालय

(4) न्यायालय, जलपुर

सूचना एवं आवाज के माध्यम से देव

उप निदेश

Issued
on 21-12-04
RS

M.P. Singh Ke. Approved
2004
M.P. Singh
2004