

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR

OA No.127/2003

Indore,, this the 20th day of July, 2004.

Coram

Mr.M.P.Singh, Vice Chairman
Mr.Madan Mohan, Judicial Member

Raj Kumar Ladia
S/o Bhagwan Das Ladia
Kanch Mandir
Machharai, Near Shani Dev Temple
Saugor.

Applicant

(By advocate Sh.S.K.Nagpal)

Versus

1. Union of India
through the Secretary
Department of Posts
Ministry of Communications
Dak Bhawan,, New Delhi.
2. Post Master General, MP Circle
Bhopal.
3. Senior Supdt. of Post Offices
Saugor Cantt (MP).
4. Sub Divisional Inspector (Post)
North Sub Division
Saugor (MP)

Respondents

(By advocate Sh.S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

Applicant seeks to quash impugned order dated 30.1.2003 (Annexure A1). The brief facts of the case are as follows:
2. The applicant was selected and appointed to the post of Extra Departmental Dak Messenger Sagar B1 Bazar PO by order dated 19.1.98 and he joined the service w.e.f.20.1.98. The applicant was served with a memorandum of charge dated 26.12.2001 (Annexure A3) alleging that he had secured the appointment by furnishing a non-standard mark sheet of 8th class instead of standard mark sheet and thus acted against EDA Conduct and Service Rules, 1964. Sh.A.K.Jain, Sub Divisional Inspector (Posts) Khurai Sub Division conducted the enquiry.

The applicant submitted his defence. The enquiry officer did not apply his mind and with the sole motive to get the applicant removed from service he submitted his report to respondent No.4. The applicant submitted his representation against it. Thereafter respondent No.4 passed the impugned order dated 30.2.2003 (Annexure A-1) terminating the services of the applicant without application of mind.

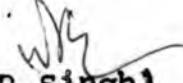
2. Heard the learned counsel for both parties. It is argued on behalf of the applicant that he has passed the 8th class examination and submitted the proof in support of it but the respondents have not relied upon it, which is not proper. Termination order of the applicant is illegal.

3. In reply, the learned counsel for the respondents argued that an enquiry was made which revealed that the selection of the applicant was made on the basis of mark sheet of class VIII of local examination passed by the applicant in the year 1994 whereas the educational qualification for the post of EDMC as per method of recruitment has been VIII standard/ matriculate and it has been presumed that the examination conducted by Board is treated as standard examination for the appointment in the Govt. organisation under local examination is treated as non-standard examination. Hence the impugned order was passed in accordance with rules.

4. After hearing the learned counsel for the parties and perusing the records, we find that the qualification for appointment to the post of EDMC was 8th standard. Matriculation was preferred qualification. It was not mandatory and secondly examination of 8th standard is not generally conducted by the Board. High School/Intermediate examination is conducted by the Board. It is not provided under rules that 8th standard examination must be conducted by any Board. Hence the applicant has fulfilled the condition of educational qualification in accordance with rules.

5. The OA deserves to be allowed. Hence the OA is allowed. The impugned order dated 30.1.2003 (Annexure A1) is quashed and set aside. The respondents are directed to appoint the applicant GDS within a period of three months from the date of receipt of the copy of this order. However, it is made clear that the applicant shall not be entitled for back wages.

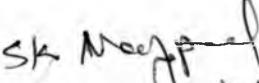

(Madan Mohan)
Judicial Member

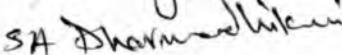

(M.P. Singh)
Vice Chairman

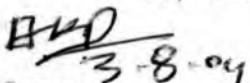
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पूर्णांकन से ओ/व्या.....जबलपुर, दि.....
प्रतिलिपि अवैध हित:-

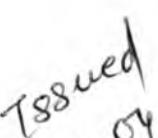
- (1) सचिव, उच्च न्यायालय तार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु..... के नामस्वरूप
- (3) पत्रकारी श्री/श्रीमती/कु..... के काउंसल
- (4) संघात, कैंपअ., जबलपुर न्यायालय
सूचना एवं आवश्यक कार्यवाही हेतु


SK Mehta


SA Dharmadhikari


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