

24.10.2008

OA No. 529/2005

Mr. C.B. Sharma, Counsel for applicant.

Mr. V.S. Gurjar, Counsel for respondents.

Mr. Hemant Mathur, Counsel for respondents.

On the request of the learned counsel for the parties, let the matter be listed for hearing on 25.11.2008.

B.L. KHATRI
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHO

25-11-2008

Mr. C.B. Sharma, Counsel for applicant

Mr. V.S. Gurjar & Mr. Hemant Mathur,

Counsel for respondents

Heard learned Counsel for the parties.

For the reasons dictated
separately, the OA is disposed of

(B.L. Khatri)
M(A)

(M.L. Chauhan)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 25th November, 2008

ORIGINAL APPLICATION NO. 529/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Jabbu Lal Meena son of Shri Kanhaiya Lal Meena aged about 55 years, resident of Village & Post Kaled Post Baswa District Dausa and presently working as Postal Assistant (HSG-II BCR), Phulera Post Office, District Jaipur.

....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communication & Information Technology, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices, Jaipur (M), Postal Division, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. V.S. Gurjar & Mr. Hemant Mathur)

ORDER (ORAL)

This case ^{has} ~~is~~ of chequered history. The applicant has earlier filed OA No. 440/2003 before this Tribunal. In that OA, the grievance of the applicant was that although the applicant was allowed to appear in the Examination of Combined PS Group 'B' examination for the vacancies of 2001 and 2002 to be held on 23/24.09.2003 vide order dated 09.05.2003 where his name find mentioned at sl. No. 3 but no call

letter has been issued to the applicant. Based on this apprehension, this Tribunal permitted the applicant to appear in the aforesaid examination provisionally vide order dated 19.09.2003. The said OA was disposed of vide order dated 03.11.2004 (Annexure A/14), when it was brought to the notice of this Tribunal that the name of the applicant does not find mention in the select list. It was further observed that the applicant cannot be granted any relief, even if it is held that the applicant was eligible for appearing the said examination obviously on account of his non-inclusion in the select list.

2. Thereafter the applicant filed another OA No. 366/2005 whereby the applicant has inter-alia prayed that direction may be given to the respondents to communicate the marks of the PPS Group 'B' Examination held on 23.09.2003 and 24.09.2004. The said OA was also disposed of by this Tribunal vide order dated 11.08.2005 on the ground that the applicant was allowed to appear in the aforesaid examination by virtue of interim order granted by this Tribunal in the earlier OA. As such, so long as eligibility to appear in the examination is not decided, no such direction can be given to the respondents to communicate the marks of the aforesaid examination to the applicant. It was further observed that it will be open for the applicant to agitate the matter regarding eligibility to appear in the said examination and also for communication of the marks by filing substantive OA.

3. The applicant has filed this OA pursuant to the observation made by this Tribunal in OA No. 366/2005 thereby asserting that the applicant was eligible to appear in the said examination as vacancies pertain to the year 2001 and 2002 whereas ~~classification~~ ^{clarification} issued by the respondents i.e. Annexure A/8, by which the applicant was not eligible to appear in the examination, has been issued in the year 2003. Thus according to the applicant, he was eligible to appear in the

examination. Thus it was incumbent upon the respondents to communicate the marks to the applicant of the aforesaid examination.

4. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have categorically stated that the applicant was granted financial upgradation under BCR Scheme/TBOP Scheme. It is not a promotion and the applicant was not entitled to be considered for promotion to Group 'B' post as the feeder category is LSG/HSG cadre.

5. The applicant has filed rejoinder. Alongwith the rejoinder, the applicant has annexed copy of the instructions dated 15.02.2006 (Annexure A/16). From perusal of these instructions, it is evident that respondents have taken a policy decision regarding communication of marks in respect of the provisional candidates after payment of prescribed fee. It has been further stated in the said instructions that communication of marks to the provisional candidates as well will help the cause of increasing transparency in the system. However, in the last line of the aforesaid circular, it is mentioned that where the candidature of the candidate is cancelled, marks need not to be communicated.

6. We have heard the learned counsel for the parties. Learned counsel for the applicant submits that in view of the circular/policy decision taken by the respondents vide Annexure A/16, it was incumbent upon the respondents to communicate the marks to the applicant and cancellation of the candidature of the applicant solely on the ground that no relief has been granted by this Tribunal in earlier OA cannot be upheld and impugned order (Annexure A/1) is required to be quashed.

7. We have given due consideration to the submission made by the learned counsel for the parties. We are of the view that as can be gathered from circular dated 15.02.2006 (Annexure A/16), the purpose of communicating the marks even to the provisional candidates is to increase the transparency in the system. When this is the object of the policy decision dated 15.02.2006, we are of the view that in order to give full effect to this circular, the impugned order dated 17.06.2005 (Annexure A/1) is required to be quashed and the respondents are directed to communicate the marks to the applicant in respect of the examination held on 23/24.09.2003 on payment of prescribed fee. Such an exercise shall be done within a period of two months from the date of payment of the prescribed fee by the applicant.

8. With these observations, the OA is disposed of:


(B.L. KHATRI)
MEMBER (A)

AHQ


(M.L. CHAUHAN)
MEMBER (J)