

06/05/2014

OA No. 225/2011

Mr. C.B. Sharma, Counsel for applicant.
Mr. Mukesh Aggarwal, Counsel for respondent Nos. 1 to 3.
None present for respondent No. 4.

Heard learned Counsel for the parties.

Order is reserved.



[Smt. Jasmine Ahmed]

Member (J)

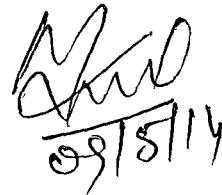
Anil Kumar

[Anil Kumar]

Member (A)

Dt. 09-5-2014

Order pronounced today in the open
Court by the aforesaid Bench.


09/5/14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION NO. 225/2011

ORDER RESERVED ON 06.05.2014

DATE OF ORDER : 9 .05.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MRS. JASMINE AHMED, JUDICIAL MEMBER

Jagpat Singh Meena son of Shri Vijay Singh Meena aged about 49 years, resident of 36, Shiv Nagar, Bharatpur and presently working as Accountant, Bharatpur Head Post Office, Bharatpur.

... Applicants

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

Versus

1. Union of India through Secretary to the Government of India, Department of Posts, Ministry of Communications and Information Technology, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices, Bharatpur Postal Division, Bharatpur.
4. Shri M.C. Meena, Assistant Post Master (Accounts), Bharatpur Head Post Office, Bharatpur.

... Respondents

(By Advocate: Mr. Mukesh Agarwal – Respondents nos. 1 to 3
None present for respondent no. 4)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The applicant has filed this OA praying for the following reliefs:-

- "(i) That the respondents be directed to allow the applicant to hold the post of Assistant Post Master (Accounts), Bharatpur Head Post Office in the pay band Rs.5200-20200 with grade pay Rs.2800/- by quashing memo dated 06.04.2011 (Annexure A/5) to the extent of

Anil Kumar

posting of respondent no. 4 as Assistant Post Master (Accounts) Bharatpur Head Post Office with all consequential benefits.

- (ii) That the respondent no. 2 be further directed to act upon instructions dated 07.03.2011 (Annexure A/4) taking into consideration of order passed by Hon'ble CAT Bench, Hyderabad at Annexure A/3 and extend benefit to the applicant from the date respondent no. 4 allowed the benefits against the post of Accounts line.
- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the applicant was initially appointed as Postman and further promoted as Postal Assistant on 25.03.1995. That the applicant qualified examination of Post Offices/ Railway Mail Service Accountants in 2001. That the official respondents posted private respondent no. 4 on the post of LSG (Accounts). That he does not have qualification of accounts line. That the CAT Bench Hyderabad vide its order dated 18.02.2010 passed in OA No. 129/2007 quashed the posting of unqualified officials as Assistant Postmaster (Accounts) (Annexure A/3).

3. That the respondent no. 1 issued instructions vide letter dated 07.03.2011 for filling up the post of LSG Grade in accounts line with the direction that these posts should be filled from the PAs/SAs, who qualified the accounts examination (Annexure A/4).

4. The learned counsel for the applicant further submitted that the respondent no. 2 ignoring these instructions and also the order

Anil Kumar

of the CAT Hyderabad Bench dated 18.02.2010 passed in OA No. 129/2007, posted private respondent no. 4 as Assistant Postmaster (Accounts) vide Memo dated 06.04.2011 (Annexure A/5). Thus the posting of private respondent no. 4, Shri M.C. Meena, is against the directions of the Hon'ble CAT Hyderabad Bench and also against the instructions issued by respondent no. 1 dated 07.03.,211 (Annexure A/4). Therefore, the learned counsel for the applicant prayed that the Memo dated 06.04.2011 qua the private respondent no. 4, Shri M.C. Meena, be quashed and set aside and to extend the benefit to the applicant from the date the private respondent no. 4 was allowed the benefit against the post of Accounts line.

5. The respondents have filed their reply. In their reply, the respondents have stated that the post of APM (Accounts) Bharatpur HO was lying vacant since 22.03.2010 due to death of Shri Vinod Kumar Khandelwal (Ex-APM Accounts) Bharatpur HO. Accordingly, the DPC was held and on recommendation of DPC, Shri M.C. Meena, private respondent no. 4 was appointed on the vacant post of APM (Accounts) Bharatpur vide order dated 31.03.2011 (Annexure R/1).

6. That private respondent no. 4 is senior to the applicant as per the Circle Gradation List.

Anil Kumar

7. That the respondent no. 1 had instructed vide letter dated 07.03.2011 (Annexure A/4) to prepare the eligibility list of such PAs/SAs who have passed the Accounts Examination by the crucial date prescribed for assessing the eligibility based on their seniority in PA/SA grade and an action is being taken accordingly at circle level. The case of the applicant will be considered on the basis of his seniority.

8. The respondents in their written reply have stated that the letter dated 07.03.2011 has been issued on the basis of the order dated 18.02.2010 passed in 129/2007 of the Hon'ble CAT Hyderabad Bench (Annexure A/3). The DPC was held as per the revised recruitment rules dated 18.05.2006. Hence, there is no illegality in the action of the respondents in posting the private respondent no. 4 on the post of APM (Accounts) LSG (NB) Bharatpur. Therefore, the OA has no merit and it should be dismissed with costs.

9. Heard the learned counsel for the parties, perused the documents on record and the case law referred to by the learned counsel for the applicant. The learned counsel for the respondents mainly laid stress on the fact that private respondent no. 4, Shri M.C. Meena, is senior to the applicant and, therefore, posting him as APM (Accounts), Bharatpur HO is according to the rules. He also argued that the respondents are taking action as per the directions issued by respondent no.1 dated 07.03.2011 (Annexure A/4). The

Anil Kumar

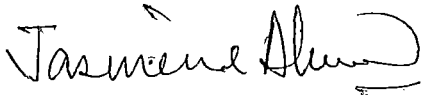
applicant would also be considered for promotion on his turn. However, the main contention of the learned counsel for the applicant is that the private respondent no.4, Shri M.C. Meena, has not qualified the Accounts Examination and, therefore, he could not have been considered for promotion on the post of APM (Accounts) in view of the order dated 18.02.2010 passed in OA No. 129/2007 of the Hon'ble CAT Hyderabad Bench and also the instructions issued by respondent no. 1 dated 07.03.2011. From the perusal of the record, it is clear that the order of private respondent no. 4, Shri M.C. Meena, were issued on 06.04.2011 (Annexure A/5) or at best on 31.03.2011 (Annexure R/1). In any case, both these orders are issued after the instructions issued by respondent no. 1 dated 07.03.2011 and also after the order dated 18.02.2010 passed in OA No. 129/2007 of the Hon'ble CAT Hyderabad Bench. Therefore, the respondents were duty bound to consider these facts before promoting and posting Shri M.C. Meena, private respondent no. 4 as APM (Accounts) Bharatpur HO. Therefore, we are of the view that the order dated 06.04.2011 qua the private respondent no. 4, Shri M.C. Meena, is liable to be quashed and set aside.

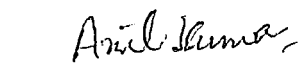
10. Accordingly, the order dated 06.04.2011 (Annexure A/5) qua Shri M.C. Meena is quashed and set aside and the respondents are directed to consider afresh to fill up the post of APM (Accounts) Bharatpur HO taking into consideration the instructions issued by the respondent no. 1 dated 07.03.2011 (Annexure A/4) and the order dated 18.02.2010 passed in OA No. 129/2007 of the Hon'ble

Ashu Kumar

CAT Hyderabad Bench (Annexure A/3). The respondents are directed to complete this exercise within a period of three months from the date of receipt of a copy of this order.

11. With these directions, the OA is disposed of with no order as to costs.


(JASMINE AHMED)
MEMBER (J)


(ANIL KUMAR)
MEMBER (A)

abdul