

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 688/2013

DATE OF ORDER : 09.01.2015

CORAM :

HON'BLE MR. B.V. RAO, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Gyanprakash Meena son of Shri Ramsingh Meena, age about 37 years, Village and Post Govindgarh, nearby Ganga Temple, Tehsil Laxmangarh, District Alwar (Rajasthan).

... Applicant

(By Advocate: Mr. Gaurav Jain (II) Proxy to Mr. Aatish Jain)

Versus

1. Union of India through Secretary, Ministry of Communication and Information Technology, New Delhi.
2. Director, Postal Services (Head Office), Postal Department, Jaipur.
3. Pravar Adhshak, Head Post Office, Alwar.
4. Ashok Kumar Meena son of Shri Radaram Meena, resident of Village Kharsanki, Post Rambas, Tehsil Laxmangarh, District Alwar (Rajasthan).

... Respondents

(By Advocate: Mr. Mukesh Agarwal – Respondents nos. 1 to 3.
Mr. Rambabu Sharma – Respondent no. 4.)

ORDER (ORAL)

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

- (i) By an appropriate order and direction the respondents may be directed to consider the case of the petitioner for appointment on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar and quashed and set aside the selection of respondent no.4 by quashing the Annexure-1 qua Respondent no. 4 and order dated 12.04.2013.
- (ii) By an appropriate order or direction, respondents may be directed not select the ineligible candidate who does not possess requisite qualification and used forged document to get selection on the post.

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- (iii) Any other appropriate order or direction, which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case, may be passed in favour of applicant.
- (iv) Cost of the Original Application may also be awarded in favour of the applicant."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that respondent no. 3 had issued an advertisement dated 13.03.2013, wherein applications were invited for making appointment on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar. It was provided in the advertisement that the candidate should be 10th pass (Annexure A/2).

3. That the applicant being fully eligible for applying for the post of GDSBPM at Village Dongri (Govindgarh), District Alwar, submitted his duly filled application form before expiry of last date and since he was most eligible candidate he had hope of selection being most eligible candidate.

4. That when the applicant got information that he has not been selected and another candidate namely Mr. Ashok Kumar Meena son of Shri Ruda Ram Meena, private respondent no. 4, was selected by respondents nos. 2 & 3, the applicant got shocked because as per his information, he was not a 10th pass candidate.

5. That upon knowledge about selection of respondent no.4 upon the post advertised by advertisement dated

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13.03.2013, the applicant sent an application on 22.04.2013 to respondent no.3 under Right to Information Act to get the list of eligible candidates and their priority.

6. That upon receiving application filed by the applicant, respondent sent reply to the applicant along with the priority list of candidates.

7. That private respondent no. 4, Mr. Ashok Kumar Meena, is not a 10th passed candidate and does not possess requisite qualification as per Annexure A/3 and he is 10th fail candidate, who appeared two times in class 10th examination in the year 1997 and in the year 1998, but could not pass the exam.

8. That as per priority list available by the department, the date of birth of private respondent no. 4 is 24.07.1993 whereas the date of birth mentioned in Annexure A/3 is 02.05.1981. This clearly shows that respondent used any forged document to get the selection for aforesaid post.

9. That due to selection of such ineligible candidate, who has not requisite qualification as per advertisement (Annexure A/2), the applicant has been deprived from his right of appointment, and for this reason applicant made so many complaints and at last he sent a registered legal notice through his advocate, but nothing transpired and respondent nos. 2 & 3 are going to appointment the ineligible candidate.

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10. That being aggrieved by the action of the respondents in not selecting the applicant on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar instead selecting a non eligible candidate, he preferred an OA NO. 646/2013 before this Hon'ble Tribunal and at the stage of admission on 12.09.2013, this Hon'ble Tribunal passed the order that a speaking order shall be passed by the respondent but without passing any speaking order, respondents are going to select an ineligible person who has also given false information for getting selected himself on the aforesaid post.

11. Therefore the learned counsel for the applicant submitted that the OA be allowed and the applicant be given appointment on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar in place of private respondent no. 4, Mr. Ashok Kumar Meena.

12. On the other hand, the learned counsel for the official respondents nos. 1 to 3 have submitted their written reply. In their written reply, they have stated that respondent no. 3, Superintendent of Post Offices, Alwar Division, issued an advertisement dated 13.03.2013 to fill up vacant post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar. In response to the advertisement, seven applications were received.

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13. As per the marks obtained in Secondary/ 10th Class Examination, the merit lists/ selection list was prepared for appointment on the GDSBPM at Village Post Dongri (Govindgarh), District Alwar. Shri Ashok Kumar Meena, who has highest 74.66% marks in 10th Class examination was selected on the post. It is pertinent to mention here that Shri Ashok Kumar Meena, respondent no. 4, has passed his 10th Class/ High School Examination 2012 from the Board of High School and Intermediate Education UP. The High School Mark Sheet of Shri Ashok Kumar Meena (Annexure R/1) was sent to the Regional Secretary, Council of Secondary Education, Meerut (UP) and the Regional Secretary Council of Secondary Education (UP), Regional Office, Meerut has also verified the same vide letter dated 06.08.2013 (Annexure R/2).

14. Earlier the applicant filed a SB Civil Writ Petition No. 12039/2013 before the Hon'ble Rajasthan High Court, Jaipur Bench, Jaipur in the same matter. The Hon'ble High Court vide interim order dated 12.07.2013 directed the respondent department that "In the meanwhile, if, appointment is given to the respondent no. 3 (Shri Ashok Kumar Meena), it will remain subject to final outcome of the Writ Petition. It is made clear that ultimately if it is found that forged document or eligibility is submitted, not only the appointment would be cancelled but a direction for initiation of criminal case against respondent no.

3 would also be issued."

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15. Subsequently, the Hon'ble High Court vide order dated 09.09.2013 dismissed the Writ Petition with liberty to the applicant to maintain the OA before the Central Administrative Tribunal.

16. In compliance of Hon'ble High Court interim order dated 12.07.2013, the respondents have stayed the appointment process. The date of birth and educational 10th mark sheet of selected candidate, Shri Ashok Kumar Meena (Respondent no. 4) has been verified from the issuing institution who has verified the genuineness of mark sheet. The respondent no. 4 is meritorious candidate who has been selected as per rules. The allegations made by the applicant are totally false and misleading. The action of the respondents is legal, proper and justified as per law on the subject. As such the OA is not maintainable and deserves to be dismissed.

17. The private respondent no. 4 has also filed his reply. In his reply, respondent no. 4 has stated that he is eligible candidate in all respects for appointment on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar because he is possessing the qualification of 10th Class obtained from the UP Board. The official respondents have selected him on the basis of his qualification and eligibility.

18. The private respondent no. 4 has also stated that at the time of admission in the school, his parents did not mention the date of birth in the application form and the

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concerned teacher of the school wrongly mentioned his date of birth without any basis. His date of birth as per Janam Patrika is 24.07.1993 and thus he has not concealed any facts regarding his date of birth. Therefore, the action of official respondents in giving appointment to private respondent no. 4 is absolutely legal and according to the rules. Hence the OA has no merit and it should be dismissed.

19. The applicant has also filed the rejoinder. In the rejoinder, the applicant has again stated that private respondent no. 4 obtained the Matriculation Certificate by fraud and now he wants to get benefit of the same.

20. Heard the learned counsel for the parties and perused the documents on record.

21. The learned counsel for the applicant reiterated the facts as stated in his OA as well as rejoinder. He particularly drew our attention to Annexure A/3, which is a Transfer Certificate from Rajkiya Higher Secondary School, Govindgarh (Alwar) dated 16.05.2013 in which it is shown that private respondent no. 4, Shri Ashok Kumar Meena, failed in the 10th Examination for the year 1996-97 and 1997-98. According to this certificate his date of birth is 02.05.1981. However, as per Annexure A/5, which is a comparative chart of candidates, who have applied for the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar, the date of birth of private respondent no. 4, Shri Ashok Kumar Meena, has been shown

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as 24.07.1993. Thus if the date of birth of Shri Ashok Kumar Meena is 24.07.1993 then how could have he appeared in the 10th Examination in the year 1996-97 and 1997-98 because at that time his age would have hardly be four to five years. Therefore, Matriculation Certificate of the applicant issued from the Board of High School and Intermediate Education, UP (Annexure R/1) is a forged document. He also drew our attention to Annexure R/4/2, which is Janam Patrika of private respondent no. 4, according to which this document was prepared on 30.07.1993. However, the telephone numbers which have been given are after the year 2000. Therefore, this document is also a forged/fabricated document, which has been prepared in support of his contention that private respondent no. 4, Shri Ashok Kumar Meena's, date of birth is 24.07.1993. Thus the private respondent no. 4 has been given appointment on the basis of forged documents. Therefore, the selection of private respondent no. 4 should be cancelled and in his place, the applicant should be appointed on the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar.

22. On the other hand, the learned counsel for official as well as private respondent no. 4 have reiterated the facts as stated in their reply. The learned counsel for official respondent submitted that since there was a complaint about the validity of the High School Certificate issued by the Board of High School and Intermediate Education, UP (Annexure R/1), therefore, they again got it verified from the Regional Secretary, Council of the Secondary Education, Meerut UP. The

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Regional Secretary, Council of the Secondary Education UP, Meerut verified the same vide letter dated 06.08.2013 (Annexure R/2) and only after the verification, private respondent no. 4 was selected. Therefore, there is no irregularity/illegality in the selection of private respondent no. 4 to the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar. The learned counsel for the private respondent no. 4 also argued that the High School Certificate cum Mark sheet issued by the Board of High School and Intermediate Education, UP is a genuine document. That the correct date of birth of private respondent no. 4 is 24.07.1993.

23. Having heard the rival submissions of the parties and after perusal of documents on record, the short controversy involved in the present OA is with regard to the validity of the High School Certificate cum Mark sheet produced by respondent no. 4 before the official respondents. The learned counsel for official respondents during the arguments as well as in their written reply has stated that they have got this mark sheet verified from the Regional Secretary, Council of Secondary Education, UP, Regional Office Meerut UP and they have verified this mark sheet vide their letter dated 08.08.2013 (Annexure R/2). Therefore, we are of the opinion that respondents have taken due precaution while selecting the private respondent no. 4 for the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar. Since the certificate cum mark sheet issued by the Board of High School and Intermediate Education, UP (Annexure R/1) has been verified

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and private respondent no. 4 has secured more marks (74.66%) in the Secondary School Examination than the applicant (who has secured 47.09% marks), we do find any irregularity/illegality in the action of the official respondents in the selection of private respondent no. 4 for the post of GDSBPM at Village Post Dongri (Govindgarh), District Alwar. Therefore, the OA has no merit and it is dismissed with no order as to costs.

24. However, official respondents are directed that they should carry out an inquiry about the correct date of birth of private respondent no. 4. The private respondent no. 4 has not denied in his written statement nor during the argument about the validity and correctness of Annexure A/3, which is a Transfer Certificate issued by Rajkiya High Secondary School, Govindgarh (Alwar) in which the date of birth has been shown as 02.05.1981. He has only stated that parents were not aware about his date of birth. They left the column blank while submitting the application for admission. It was the school teacher who has filled up his date of birth, therefore, there may have been some error. He has not disputed that he passed 9th Class from Government Higher Secondary School, Govindgarh (Alwar). He has not placed any document to show that in which year he passed 8th Class. From the perusal of Transfer Certificate at Annexure A/3, it is clear he passed 9th Class in the year 1995-96. Therefore, he would have passed 8th Class earlier to 1995-96. In this Transfer Certificate, it has been mentioned that earlier the private respondent no. 4 was a

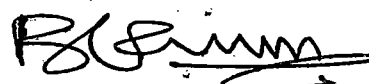
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student of Rajkiya Uchhatar Prathamik Vidyalaya, Talda, Govindgarh, Alwar from where he passed VIII Class. If his date of birth is 24.07.1993, certainly it may raise a doubt whether he passed 8th class in the age of 3 or 4 years. The learned counsel for the applicant also drew our attention to Annexure R/4/2, which is Janam Patrika produced by private respondent no. 4 in support of his arguments that the date of birth as shown in High School Certificate (Annexure R/1) is forged. According to him, even this Janam Patrika is a forged document for the reasons that the telephone numbers given in the Janam Patrika are after the year 2000 whereas this documents is dated 31.07.1993. Therefore, in view of these facts, it is necessary that official respondents should make a detailed inquiry about the correctness of date of birth of private respondent no. 4. If it is found that the private respondent no. 4 has shown his wrong date of birth in his High School Certificate, then respondents are free take further action according to the provisions of law. The official respondents should complete the inquiry in three months from the date of receipt of a copy of this order.


(Anil Kumar)
Member (A)

Abdul


(B.V. Rao)
Member (J)