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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00227/2014

Date of Decision : 9.1.2015

Reserved on: 07.01.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Pawan Kumar son of Raghbir Singh r/o VPO Kailram, Tehsil Kalayat,
District Kaithal.

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Applicant

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Information and Technology, Postal, New Delhi.
2. Senior Superintendent of Post Offices, Ambala Division, Ambala.
3. Superintendent, RMS, HR, Division Ambala.

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Respondents

Present: Mr. Vaibhav Sehgal, counsel for the applicant
Mr. Darshan Gupta, proxy for Mrs. Mohinder Gupta, counsel for
the respondents

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (i) Quash letter dated 05.03.2014 (Annexure A-1) vide which provisional selection of the applicant was cancelled after confirmation to him vide letter dated 28.02.2014 (Annexure A-2).

(ii) For issuance of direction to the respondents to allow the applicant to appear in accordance with the letter dated 28.02.2014 (Annexure A-2) in the office of respondent no.3

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alongwith the relevant documents as sought for in the letter dated 28.02.2014 (Annexure A-2)."

2. The background of the matter is that the applicant who belongs to OBC Category applied for the post of Postman / Mail Guard in response to notification issued by the Chief Post Master General, Haryana Circle dated 24.11.2013 (Annexure A-3). The Department of Posts issued letter dated 28.02.2014 to the applicant stating that his name had been approved for appointment as Mail Guard provisionally on the basis of Aptitude Test held on 16.02.2014 and the applicant was required to attend the office of Superintendent RMS on or before 18.03.2014 for verification of documents. However, on 05.03.2014, the applicant received another letter from the Department of Posts stating that it had been found that the marks of the applicant were '8' in Part 'C' of the Examination whereas minimum '9' marks were required by the applicant (being OBC candidate) to qualify in the examination. He was informed that his name had wrongly been added in the list of provisionally selected persons and had now been deleted.

3. In the grounds for relief, it has been stated as follows:-

"i) The respondent Department has gravely erred in cancelling the selection of the applicant in violation of the letter (Annexure A-2) as in the letter (Annexure A-2) it was clearly stated that the selection of the applicant is only subject to verification of documents and nothing else. There was no scope for any recounting and rearrangement as informed by the respondent Department. The recounting / rearrangement is nothing but a complete hoax an eyes wash done with malafide intention to adjust some other person at the place of the applicant.

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ii) No show cause notice was ever issued to the applicant that his selection is going to be cancelled. The show cause notice was mandatory as the letter (Annexure A-2) informing the applicant regarding his selection had created a valuable right in favour of the applicant which could not have been unilaterally revoked.

iii) The applicant categorically states that he has scored more than the desired minimum marks and the information contained in the letter (Annexure A-1) is false to the knowledge of the respondent Department and the same has been issued only for the purpose of cancelling the selection of the applicant."

Hence this OA.

4. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It has, however, been stated that in Clause 6.2 of the notification (Annexure R-1) under the qualifying marks, it was clearly stated as follows:-

- "(a) Minimum 10 marks for OC, 8 Marks for SC and 9 marks for OBC candidates in each part.
- (b) 40% marks for OC, 33% marks for SC and 37% marks for OBC candidates in aggregate."

The examination to fill the vacancies was held on 16.02.2014 and the applicant appeared as OBC candidate under Roll No.HRD95017. The detailed marks of the applicant are as under:-

Sr.No.		Part A	Part B	Part C	Part D	Total
1.	Maximum marks	25	25	25	25	100
	Marks obtained	19	16	08	20	63

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The applicant did not qualify in Part C of the examination held on 16.02.2014 as he obtained only 08 marks in Part C i.e. less than qualifying marks for OBC (Annexure R-2).

5. A committee consisting of three officers was constituted by the Chief PMG, Haryana Circle, Ambala vide Memo No.APS/Con-32/A/2013 dated 28.02.2014 for recruitment of Mail Guard by Direct Recruitment Examination held on 16.02.2014 for 'HR' Division, Ambala (Annexure R-3) and they declared Sarvshri Sumit Parkash, Anish Pal and Pawan Kumar (OBC) as successful in the selection. However, while arranging the record of selected candidates for the post of Mail Guard on 05.03.2014, it came to light that the applicant did not score 09 marks in Part C Examination and hence had not qualified. Therefore, a report regarding wrong selection of the applicant was made to Circle Office, Ambala on the same day vide letter dated 05.03.2014 (Annexure R-5). This fact was also communicated to the applicant vide letter dated 05.03.2014 (Annexure A-1).

6. The Chief PMG, Haryana Circle, Ambala then constituted another Committee comprising the following officers vide Memo dated 05.03.2014 to recompile / re-check the result of the examination held on 16.02.2014: i) Sh. Jagdish Chander, SSPOs, Ambala Division, Ambala Chairman. ii) Shri Gurdev Singh, SRM, 'HR' Division, Ambala, Member-I. iii) Sh. J.K. Dutta, AD (BD, PA&T), Circle Office, Ambala, Member-II. Sh. Paramjeet Singh, AE (Electrical), Circle Office Compound, Ambala was

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● nominated as minority member of the Committee (Annexure R-6). The Committee recompiled the result and Sh. Sumit Parkash, Sh. Anish Pal and Sh. Manoj Kumar Yadav (OBC) were declared successful. A copy of the Minutes of the Meeting of the Committee is attached as Annexure R-7. In accordance with the Minutes of the Meeting of the Committee, the name of the applicant was deleted from the list of selected candidates as he did not fulfill the condition of qualifying marks in each Part of the Examination for the selection of Mail Guard. The marks obtained by the candidates remained the same and none of the Committee members altered the marks obtained by the candidates. The applicant was disqualified as he did not obtain the minimum qualifying marks in Part C of the Examination.

The action of the Committee was fair and transparent and hence there was no merit in this OA.

7. No rejoinder has been filed on behalf of the applicant.

8. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant reiterated the content of the OA and alleged malafide in the applicant first being declared successful on provisional basis and thereafter being declared unsuccessful.

9. Learned counsel for the respondents produced the copy of the OMR sheet relating to the applicant and stated that it was evident from the same that the applicant had obtained only 08 marks in Part C and hence had not qualified in the Examination. u

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10. We have given our careful consideration to the matter. Perusal of Annexure R-2 does not show any evidence of tampering as there are 08 'Ticks' and the applicant has been given 08 marks in Part C. The applicant's counsel who admitted that he had a copy of the OMR sheet (Annexure R-2) could not point out anything to show that the OMR sheet had been tampered with or that the marks had been wrongly awarded under Part C. A bonafide error appears to have been committed by the first Committee while scrutinizing the result sheets of the candidates. The applicant was apparently declared successful on the basis of the total marks scored by him while the Committee lost sight of the aspect that in each part, the candidates had to qualify as per the qualification criteria indicated in the prospectus / notification dated 24.11.2013. The second Committee rectified the error and another person who had scored the qualifying marks in all parts of the examination was selected under the OBC Category. The applicant having failed to qualify in Part C of the Examination as can have no claim for appointment as Mail Guard. Hence, there is no merit in this OA and the same is rejected. No costs.

**(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.**

**(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER**

Place: Chandigarh
Dated: 9.1.2015
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