

Reserved
(On 05.09.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Dated: This the **04th** day of **October** 2018

Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Original Application Number. 330/00935 of 2011

Lal Chand Maruya, S/o Ram Karan Maurya, R/o Village and Post Shivpur, District Azamgarh.

.....Applicant.

By Adv: Shri B.N. Singh

VE R S U S

1. Union of India, through its Secretary, Ministry of Communication (P&T), Sansad Marg, New Delhi.
2. The Director Postal Services, Gorakhpur Region, Gorakhpur.
3. The Sub Divisional Inspector, East, Gorakhpur.
4. Jitendra Yadav, S/o Patiraj Yadav, R/o Gramin Das Sewak Vahak (Runner) Bazar Gosai Sub Post Office, Azamgarh.

.....Respondents

By Adv: Shri R.P. Maurya and Shri Vishnu Kumar

Alongwith

Original Application No. 330/00934 of 2011

Brajendra Kumar, S/o Tersi Ram, R/o Village and Post Bilariyanganj, District Azamgarh

.....Applicant

By Adv: Shri B.N. Singh

VE R S U S

1. Union of India, through its Secretary, Ministry of Communication (P&T), Sansad Marg, New Delhi.
2. The Director Postal Services, Gorakhpur Region, Gorakhpur.
3. The Sub Divisional Inspector, East, Gorakhpur.
4. Tej Pratap Singh, S/o Yogendra Nath Singh, R/o Gramin Das Sewak M.D. Bilariyanganj, Azamgarh.

.....Respondents

By Adv: Shri R.P. Maurya and Shri Vishnu Kumar

ORDER

By Hon'ble Mr. Gokul Chandra Pati, Member (A)

Since both the OAs have been filed with the common prayer for relief with similar cause of action, these are disposed of by this common order, with the OA No. 935/11 being taken as the leading case for this order which shall also apply for the OA No.934/2011.

2. Reliefs sought for by the applicants in both the OAs are common and are as under:-

- “8.1. to issue a suitable order or direction to set aside the appointment order dated 26.07.2008 of the respondent no. 4 mentioned in the impugned order dated 22.02.2010 (Annexure No. A-1).***
- 8.2. to issue a suitable order or direction to the respondents to provide appointment on the post of G.D.S.MC., Bazar Gosai to the applicant with all consequential benefits.***
- 8.3. to issue any other suitable order or direction as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.***
- 8.4. to award the cost of the application in favour of the applicant from the respondents.”***

3. The brief facts of the case are that the post of Gramin Dak Sewak Mail Carrier (in short GDSCMC), Azamgarh had fallen vacant and the respondent No. 3 had issued a notification for calling suitable candidates from eligible candidates for regular appointment. The applicant had applied for the post of GDSCMC and submitted his application with supporting documents through registered post on 26.06.2018 (Annexure A-2), which was received by the department within time. It is stated in the OA that the applicant had passed Adhakari Pariksha from Gurukul Vishwavidyalaya, Vrindavan, Mathura in 2001 and the said Adhakari Pariksha is equivalent to High School and the said University is duly recognized under the Uttar Pradesh Intermediate Education Act, 1921 (Annexure A-4).

4. The applicant had earlier filed the OA No. 735/08 for seeking appointment as GDSCMC. The aforesaid OA was disposed vide order

dated 21.07.2008 (Annexure No. A-5) of with a direction to make representation alongwith copy of the OA and its annexures and the respondents were directed to decide the representation of the applicant within a period of six weeks. When his representation was not decided by the respondents, the applicant filed Contempt Petition No. 15/09. When in notice in the aforesaid Contempt Petition was received by the respondents, then the impugned order dated 22.02.2010 was passed and the Contempt Petition was dismissed on 06.08.2010 with a liberty to file fresh OA.

5. It is further stated that the respondents arbitrarily rejected the claim of the applicant vide order dated 22.02.2010 (Annexure-A-1 to the OA). It is further submitted that Sachiv of the Education Board, Allahabad issued an order dated 19.09.2008 (Annexure A-9) regarding valid degree of Adhikari Pariksha till 2008 if candidate passed with English subject in one year. The impugned order dated 22.02.2010 shows that respondent No. 4 (Jitendra Yadav) is lower in merit compared to the applicant, but due to non-verification of the applicant from concerned institution, the claim of the applicant has not been considered due to the fact that Gurukul University, Vrindavan, Mathura declared fake vide order dated 16.05.2008. It is stated that it was decided by Government order dated 10.07.2008 the degree of Adhikar Pariksha from the said Gurukul University is valid till 2008. The applicant stated that he obtained degree from the aforesaid University in the year 2001, therefore, the said degree is valid. The Inspector of Post Offices (East), Azamgarh had made verification of mark sheet of applicant and others from Gurukul University in 2008 for appointment in other place and it was found to be genuine and correct. But the same authority has not sent directly for verification from Gurukul

University and sent Superintendent of Post Offices, Mathura returned by wrongly stating that Gurukul University was not functioning and closed.

6. In the counter affidavit (in short CA) filed by the official respondents No. 1 to 3 filed on 26.04.2012 as well as by private respondent No. 4 filed on 27.04.2012 and in the supplementary CA filed by the official respondents on 17.12.2013, it has been stated that the degree of the applicant was from Gurukul University, Vrindavan, Mathura which is not recognized by University Grant Commission (in short UGC). Therefore, the claim of the applicant is based on forged document. Letter dated 16.03.2008 issued by the UGC has clearly shows that Gurukul University, Vrindavan, Mathura is a fake University. On 04.07.2008 Sachiv, Madhyamik Shiksha Parisad, Allahabad issued a letter to the Inspector of Posts, Azamgarh West and vide letter dated 21.05.2008 it was informed that UGC and Higher Education Department of Government of U.P. had declared the Gurukul University, Vrindavan Mathura to be a fake institution. The applicant had passed the Adhikari Pariksha in the year 2003 from the Gurukul University, Vrindavan, Mathura. It is further stated that the letter dated 26.05.2008 issued by the Ministry of Human Resource of and Development, New Delhi clearly mentions that examination of Adhikari Pariksha, conducted by Gurukul University, Vrindavan, Mathura was already cancelled vide notification dated सं.-11 on 22.11.1979 therefore mark sheet issued by the said University in the year 2003 was not valid.

7. In the rejoinder reply filed by the applicant it has been stated that Secretary, Madhyamik Shiksha Parishad, UP Allahabad issued an

order dated 19.09.2008 (Annexure R-1 to the rejoinder), amending adhyay 14 Viniyam² (3), stipulating that Adhikari Pariksha conducted by Gurukul University, Vrindavan, Mathura is valid upto 2008 is for candidates who passed with English as a subject in one year. It is stated that the applicant has passed the said examination with English subject in the year 2001, for which his mark sheet is valid. It is submitted that in column No. 3 of the GO dated 30.04.2009 (Annexure R-2) it is mentioned that the degree of Adhikari Pariksha is equivalent to High School examination is valid upto 2008. In reply to these specific averments in para 04 of the rejoinder, no specific document or evidence has been furnished by the official respondents in their supplementary counter affidavit filed by them.

8. Shri B.N. Singh, learned counsel for the applicant was heard. Besides reiterating the stand in the OA, Shri Singh filed copy of the judgments of Hon'ble Allahabad High Court in the case of Dhanpal and others vs. State of U.P. and others in Writ-A No. 48208/2012 and in the case of Smt. Nirja Parmar vs. State of U.P. & Others in Writ-A No. 68207/2011, in which it has been decided that the Adhikari Pariksha certificate of Gurukul Viswavidyalaya, Vrindavan, Mathura is valid upto the year 2008 if it is obtained with English as one of the subject and passed in one year. It was submitted that the respondents should not have rejected the candidature of the applicant who fulfills the above criteria.

9. Learned counsel for the respondents, on the other hand, highlighted the fact that Gurukul Viswavidyalaya was declared to be a fake university both by UGC and State of U.P. and that the said Viswavidyalaya and the school from where the applicant had appeared

in the examination, are closed down, for which, the mark sheets etc. of the applicant could not be verified. Hence, the respondents treated the mark sheet as forged for which his candidature for appointment was cancelled by the respondents.

10. As mentioned in the impugned order dated 22.2.2010, by which the representation of the applicant was rejected, the mark sheet of the applicant was considered to be fake/forged and non-recognized, due to which, the case of the applicant for appointment was rejected. In the pleadings of the respondents as well as in the impugned order, two main reasons have been mentioned for not considering candidature for the post of GDS and these two reasons are (i) Gurukul Viswavidyalaya, Vrindavan is a fake university whose degrees and high school certificates are not valid; and (ii) Vidyalaya, from which the applicant had passed Adhikari Pariksha, is non-existent, hence, the mark sheet furnished by the applicant was found to be bogus and unacceptable, as informed by the respondent no. 3.

11. Regarding recognition of the certificate for Adhikari Pariksha, it is seen that Hon'ble Allahabad High Court in the case of Dhan Pal (supra), vide the order dated 9.10.2013, it is held as under:-

“Adhikari Pariksha Certificate issued by the Gurukul Viswavidyalaya, Vrindavan, Mathura, up to the year 2008 i.e. till it was recognized by the U.P. Board of High School and Intermediate Education as equivalent to High School, obtained with English as one of the subject, and passed in one year, is a valid qualification equivalent to High School, regardless of Gurukul having been declared a fake University by the UGC.”

12. From above, it is seen that as per the above judgment, Adhikari Pariksha held by the Gurukul Viswavidyalaya upto year 2008 is valid provided if it is passed in one time with English as one of the subject. The applicant's mark sheet shows that he had passed Adhikari

Pariksha of Gurukul Viswavidyalaya, Vrindavan from in 2001, when the aforesaid Viswavidyalaya was recognized. The letter dated 4.7.2008 enclosing a copy of the letter dated 21.5.2008 of Madhyamika Shiksha Parisad, Allahabad enclosed at Annexure CA-2 of the counter affidavit of the respondent no. 4 also stated about the Adhikari Pariksha of Gurukul Viswavidyalaya, Vrindavan. Similar stand has also been mentioned in the letter dated 8.5.2008 of Madhyamika Shiksha Parisad, Allahabad enclosed at Annexure CA-2 of the counter affidavit filed by the official respondents. But the official respondents have treated the mark sheet and certificate of Adhikari Pariksha conducted by Gurukul Viswavidyalaya, Vrindavan submitted by the applicant to be invalid on the ground that the said university is not recognized as mentioned in the order dated 22.2.2010. This decision is not in accordance with these letters of Madhyamika Shiksha Parisad, Allahabad and the judgment dated 9.10.2013.

13. Other reason mentioned in para 6 of the counter affidavit filed by the official respondents is that the Vidyalaya from where the mark sheet of the applicant was issued is not in existence. Hence, the mark sheet has been treated as bogus. The reply in para 6 read with the para 4 of the Rejoinder did not mention anything specific about the averment in para 6 of the counter affidavit of the official respondents regarding non-existence of the Vidyalaya. There is nothing in the pleadings of the applicant to show that the mark sheet is genuine, even if the Adhikari Pariksha conducted by Gurukul Viswavidyalaya, Vrindavan as passed by the applicant is considered to be valid in the light of the judgment dated 9.10.2013 of Hon'ble Allahabad High Court in the case of Dhanpal and others (supra).

14. In view of the facts and circumstances as discussed above, we are of the opinion that the decision as mentioned in the impugned order dated 22.2.2010 (Annexure A-1) regarding validity of Adhikari Pariksha of Gurukul Viswavidyalaya, Vrindavan passed by the applicant in 2001 is not in accordance with the judgment dated 9.10.2013 of Hon'ble Allahabad High Court in the case of Dhanpal and others (supra) as well as the letters of Madhyamika Shiksha Parisad, Allahabad enclosed with the counter affidavit of the official respondents. However, we are not inclined to interfere with the order dated 22.2.2010 in the light of the discussions in para 13 of this order.

15. Accordingly, the OA is disposed of with liberty to the applicant to submit a fresh representation to the respondent no. 2 and 3 about genuineness of his mark sheet and certificate with evidence/document to disprove the averments in para 6 of the counter affidavit of the official respondents as discussed in para 13 of this order. If the applicant submits such a representation alongwith a copy of this order to the respondent No.2 and 3 within one month from the date of receipt of a certified copy of this order, then the respondent no. 2 shall consider such fresh representation of the applicant submitted within the time as specified above and dispose it of by passing a speaking and reasoned order to be communicated to the applicant within three months from the date of receipt of the fresh representation of the applicant as directed above. It is clarified that we have not expressed any opinion about the genuineness of the applicant's mark sheet while passing this order. Both the OAs are disposed of accordingly. No costs.

(Rakesh Sagar Jain)
Member (J)

(Gokul Chandra Pati)
Member (A)

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