

(Reserved on 06.07.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Original Application No. 330/00447/2014

This the *11th* day of *July, 2018*

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Mahesh Kumar Shukla, Son of Shri Ramacharaya Shukla, Resident of Village and Post Sadopur, District Sant Ravidas Nagar, Bhadohi.

.....Applicant

By Advocate: Shri Rakesh Tripathi

Versus

1. Union of India through Post Master General, Allahabad.
2. Dak Adhikshak East, Mandal Varanasi, District Varanasi.
3. Vandana Singh, wife of Ratnsen Singh, Resident of Village Bhoori, Post Bhoori, District Sant Ravidas Nagar, Bhadohi.

.....Respondents

By Advocate : Shri D. Tiwari proxy for Sri N.P. Shukla

ORDER

DELIVERED BY:-

HON'BLE MR. GOKUL CHANDRA PATI, (MEMBER-A)

By way of the instant original application, the applicant has prayed for following relief:-

“.....impugned order dated 31.1.2013 may kindly be quashed and set aside. And further be pleased to direct the respondents to decide the representation dated 8.8.2013.
.....”.

2. The applicant was one of the candidates who had applied for the post of the Gramin Dak Sevak or Dakpal (in short GDS) in Sadopur Branch Post Office as per the advertisement dated 28.8.2012 by the respondents (Annexure no. 2 to the OA). He challenges the selection of one Vandana Singh who is arrayed as respondent no. 3 in this OA. It is alleged by the applicant that the respondent no. 3 was not eligible for the post of GDS, Sadopur as per the terms of the advertisement and she has been wrongly selected for the post. Hence, the OA challenges the appointment order dated 31.01.2013 (Annexure no. 1 to the OA) mainly on the following grounds:-

- The respondent no. 3 is not a resident of Sadopur village nor is residing in Sadopur village. Applicant has enclosed a certificate dated 5.1.2013 (Annexure no. 4 to the OA) from village pradhan in support of the contention. Respondent no. 3 is residing in another village with her husband.
- Two candidates remained for the post i.e. the applicant and the respondent no. 3 who is not residing in village Sadopur. Hence, the applicant should have been considered for appointment. Respondent no. 3 is a young lady who is not residing as a tenant in Sadopur village.
- The applicant moved representation dated 8.8.2013 (Annexure no. 8) before the respondents, but no action was taken on the said representations.
- The applicant is eligible for the appointment which has been refused by the respondents due to conspiracy.

3. The applicant also moved an application for delay condonation, on which the respondents filed their objections. Vide order dated 9.04.2015 of this Tribunal, delay condonation application of the applicant was allowed and delay in filing the OA was condoned.

4. The respondents have filed their Counter Affidavit on 10.04.2015, stating therein the following:-

- In the notification dated 28.08.2012 was issued to fill up the post of the GDS BPM Sadhopur BO where it was clearly mentioned that it is not essential the candidate is the permanent resident of BO village, but before engagement, it is necessary that he should keep temporary residence in the village and submission of residential certificate was necessary.
- 15 candidates applied in response to the notification. A list in descending order starting from the candidate securing highest mark in High School examination, The candidate securing highest mark was selected for another BO, for which his candidature was cancelled. Next meritorious candidate was the respondent no. 3 of village Bhoru with 72.16% of marks in high school examination. She was selected and issued appointment order dated 31.01.2013 after furnishing temporary residence certificate in Sadopur village.
- The applicant secured 41.16% marks and merit-wise , he is much below the selected candidate. Hence, he could not be selected for the notified post.

- The applicant's letter dated 08.08.2013 has been examined and inquired in to through Sub Divisional Inspector by the respondents. Thereafter, it has been filed.

5. In the Rejoinder filed by the applicant, no additional point has been raised. In reply to the averment of the respondents that 15 candidates applied and after cancellation of the candidature of a candidate with highest marks, the respondent no.. 3 had secured the highest marks in high school examination, nothing specific to deny these averments has been mentioned in the Rejoinder.

6. We have heard learned counsels for the applicant and the respondents, who reiterated their respective stands as per their respective pleadings. After considering the submissions and going through the materials on record, we are unable to agree with the contentions of the learned counsel for the applicant. The main objection of the applicant is that the respondent no. 3 is not staying in Sadopur village after selection, and since as per the guidelines, the respondent no. 3 has to temporarily reside in village Sadopur which is not being complied by her. This is not acceptable, in view of the contention of the respondents that it is not necessary for the candidate selected for GDS to be a permanent resident of the concerned village as he/she needs to maintain only a temporary residence and this requirement has been complied by the respondent No. 3.

7. Further, in the merit list prepared in descending order of marks secured in high school examination, the respondent no. 3 was at position No. 1 after cancellation of the candidature of the candidate with the highest marks. At the time of hearing it was submitted by the respondents' counsel that the applicant was listed at serial no 15 in the merit list of 15 candidates who had applied for the post in pursuance to the notification. Hence, even if the appointment order dated 31.01.2013 in favour of the respondent No. 3 is cancelled, then also the applicant's case cannot be considered for appointment based on his high school marks, if the earlier panel is valid as on date. Applicant's contention that only three candidates had applied for the post in question and after cancellation of one candidate, the applicant and the respondent no. 3 remained as the contenders for the post, is incorrect as revealed from the facts stated in the Counter Affidavit filed by the respondents.

8. There is no material on record to indicate if any rule or guidelines have been violated by the respondents while issuing the appointment order to the respondent no. 3, except for the issue of residential status of the respondent no. 3 which has been explained by the respondents in their pleadings. Further, the letter dated 08.08.2013 of the applicant (Annexure No. 7) has been inquired into through Sub Division Inspector and the same was filed.

9. In view of the above, we do not find any reason to interfere with the selection process and with the appointment order dated 31.1.2013 as the applicant has failed to substantiate his allegation that the selection process is vitiated.

10. Accordingly, the OA lacks merit and is liable to be dismissed.

Hence, the OA is dismissed. No order as to costs.

(RAKESH SAGAR JAIN)
MEMBER-J

(GOKUL CHANDRA PATI)
MEMBER-A

Anand...