

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/00237/2017

Orders pronounced on: 22.11.2018
Orders reserved on: 29.10.2018CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

Guriqbal Singh

S/o Sh.Gurmail Ram,

aged 24 years,

R/o Village Andian Wali,

P.O. Reond Kalanh, Via Boha,

District Mansa, Punjab (Group C)

Applicant

(By: MR. V.K. SHARMA, ADVOCATE)

Versus

1. Union of India through the Secretary,

Ministry of Communications & Information Technology through
Secretary-cum-Director General,

Department of Posts,

Dak Bhawan,

New Delhi-110001.

2. Chief Postmaster General,

Punjab Circle, Sandesh Bhawan,

Sector 17E,

Chandigarh-160017.

3. Senior Superintendent of Post Offices,

Jalandhar.

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Respondents

(BY : MR. RAM LAL GUPTA, ADVOCATE)

ORDER
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of impugned Memorandum / order dated 23.10.2017 (Annexure A-9), vide which the respondents have cancelled the recruitment process of GDS BPM, Bhin, despite the fact that the vacancy was available as one candidate (Monika Sharma) had not joined and service of other candidate (Reena Sharma) was terminated.
2. The facts of the case, which led to filing of the O.A. are that in pursuance of an open selection for the post of GDS BPM Bhin in account with Kahma SO, under Jalandhar Postal Division, the applicant was found to be meritorious and was placed at Sr. No.1 of the list. However, he was not offered appointment. On inquiry, he was informed under RTI Act, 2005, that he was ineligible having not mentioned caste and proper application form was not attached. In One Monika Sharma D/o Roshan Lal was offered appointment but she refused and in her place, Ms. Reena Sharma D/o Roshan Lal was offered appointment. The applicant filed representations for appointment and respondents initiated action to verify his educational qualifications i.e. Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad, which is recognized as valid qualification by the Ministry of Human Resource Development, New Delhi, vide letter dated 23.7.2001. However, now entire selection has been cancelled vide order dated 23.10.2017 (Annexure A-9), hence this O.A.
3. Upon notice, the respondents entered appearance and filed reply. They submit that in the selection for the post of GDS BPM Bhin, one Guriqbal Singh had stood first in the merit list but since his caste was not mentioned in application form attached, so he was declared

ineligible and orders were also issued for verification of genuineness of his marks sheet. So, offer was given to 3rd candidate, Ms. Reena Sharma as 2nd candidate had refused to join. Meanwhile genuineness of certificate of applicant was confirmed. Thus, the engagement of Reena Sharma was terminated as per provisions of rule 8(2) of GDS (Conduct & Engagement) Rules, 2011, vide order dated 8.6.2017 with payment of one month's salary in lieu of notice and now entire selection has been cancelled vide impugned order, Annexure A-9. Thus, they have prayed for dismissal of the O.A.

4. We have heard the learned counsel for the parties at length and examined the pleadings on the file.

5. The sole plea raised by learned counsel for the applicant is that the entire selection could not be cancelled by respondents in view of law laid down in the case of **UNION OF INDIA & OTHERS VS. RAJESH P.U. PUTHUVALNIKATHU & ANOTHER**, (2003) 7 SCC 285, in which it was held that where from the out of selectees, it was possible to weed out the beneficiaries of irregularities or illegalities, the entire selection should not be cancelled. The learned counsel for the respondents argued that mere empanelment does not create any right in a candidate to seek appointment and as such selection has rightly been cancelled.

6. The short issue, that is involved for determination before this Tribunal, is as to whether the applicant has any right to seek appointment to the post in the given facts and circumstances of the case or not.

7. The facts are not in dispute at all. As is apparent from the pleadings of the parties, that the respondents had prepared a panel for selection to the post of GDS BPM Bhin, in which applicant was placed at Sr. No.1. Pending verification of his certificate, the respondents offered

appointment to Monika Sharma (candidate at Sr. No.2), who declined the offer and Reena Sharma, (Candidate at Sr. No.3) was offered appointment on temporary basis, in the nature of contract only and now even her engagement has been terminated which has been upheld by us in O.A.N o. 060/00794/2017 (Reena Sharma Vs. UOI etc.) decided on 2.7.2018. The respondents have also received report about genuineness of certificate of applicant. However, considering the facts and circumstances, that applicant had not submitted his application in proper proforma and other attending facts, the entire selection has been cancelled.

8. It is a well settled law that authorities are at liberty to fill up or not fill up vacancies. Mere empanelment does not create a right for a candidate to seek appointment to a published post. In this case a conscious decision has been taken to cancel entire selection and we do not find any illegality in same. For this, we place reliance on the decisions in the cases of **SHANKARAN DASH VS. UNION OF INDIA**, 1991 (3) SCC, 47; **STATE OF MADHYA PRADESH VS. SANJAY KUMAR PATHAK** (2008) 1 SCC (L&S) 207 and **S.S.BALU & ANOTHER V. STATE OF KERALA & OTHERS**, (2009) 1 SCC (L&S), 388. In these cases, it has been clearly held that selected candidates do not have a legally enforceable right to be appointed to a post.

9. In the conspectus of the aforesaid discussion, this O.A. turns out to be bereft of any merit and is dismissed accordingly, leaving the parties to bear their own respective costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(P. GOPINATH)
MEMBER (A)**

Place: Chandigarh.
Dated: 22.11.2018

HC*