

CENTRAL ADMINISTRATIVE TRIBUNAL

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No.O.A.418 of 2011

Date of order : 08.11.2016

Present : Hon'ble Justice Mr. V.C. Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PINTU KARMAKAR

VS.

UNION OF INDIA & ORS.
(POST)

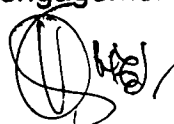
For the applicant : Mr. P.K. Roy, counsel
Ms. A. Banerjee, counsel

For the respondents : Mr. S.K. Ghosh, counsel

ORDERPer Justice V.C. Gupta, J.M.

Heard Id. Counsel for the applicant and Id. Counsel for the respondents.

2. An advertisement was issued for recruitment of Gramin Dak Sevak Branch Postmaster(in short GDSBPM) at Hatgachi in the district of Uttar Dinajpur, copy of which has been annexed as Annexure R-1 to the reply filed by the respondents. In pursuance thereof the applicant and some other persons including Santu Karmakar and Respondent No.5, Rinku Dey applied for engagement as GDSBPM. Before further proceeding with the matter of recruitment a letter has been issued by the Department of Posts, India, Ministry of Communications, New Delhi on 14.08.2003 imposing ban on all types of engagement of GDS. The ban was lifted in 2007 by Directorate's communication No.17-103/2007-GDS dated 24.12.2007 as stated by the respondents in para 6.3 of their reply. Thereafter the process of selection was initiated and fresh notification for engagement of GDS was



published on 30.07.2008 which is annexed as Annexure R-3 to the reply. In response to the open advertisement, 15 applicants including the present applicant, Sri Pintu Karmakar applied for the post of GDSBPM, Hatgachi. Out of 15 applicants 8 applications were rejected at the initial stage of scrutiny due to non-fulfillment of eligibility criteria. Consequently 7 candidates were called for verification of testimonials/certificates etc. One, Santu Karmakar who was one of the 8 candidates whose candidatures were rejected, has filed an Original Application No.1273/2009 which was decided on 23.02.2010 directing the respondents to consider the candidature of the applicant for the post of GDSBPM. In compliance of the order, the department called all the applicants who were eligible to be engaged and started fresh exercise to prepare the merit list.

3. According to the respondents, the respondent No.5, Rinku Dey was the person who secured highest marks and was placed at Sl. No.1 of the merit list and the present applicant was at Sl.No.5 of the merit list. The selection of Rinku Dey was challenged in original application and the applicant sought the following reliefs:-

"a) To pass an order/or direction upon the respondent authorities more particularly the respondent No.2 to 4 and each one of them to rescind, cancel, withdraw the panel prepared for the post of Gramin Dak Sevak, Branch Post Master Hatgachi within the District of Uttar Dinajpur and to prepare and forward a fresh panel of eligible candidates for the said post;

b) Further order/or direction may be given directing the respondent authorities to interfere into the matter of selection for the post of Gramin Dak Sevak, Branch Post Master, Hatgachi within the District of Uttar Dinajpur, upon giving opportunity of hearing and to pass an appropriate order/orders and/or consequential directions and to act in accordance with law;

c) An appropriate order directing to take into consideration the representation filed by the applicant in accordance with law and to dispose of the same within a time as specified by this Hon'ble Tribunal;



d) An appropriate order directing the respondent authorities to recast the panel after enquiring by the respondent No.2 and thereafter to give appointment on the basis of re-casted panel and to act in accordance with law;

e) To pass such other further order/or orders as your Lordships may deem fit and proper."

4. The main contention of the applicant is that the Respondent No.5, Rinku Dey is not the resident of the area where the post office is situated and be a resident of the concerned area is one of the necessary requirements for appointment to the post of GDSBPM, therefore, he sought for cancellation of the panel for selection.

5. During the course of proceedings necessary particulars of the Respondent No.5 could not be furnished by the applicant and he could not be served.

6. We have heard Id. Counsel for the parties and perused the records and pleadings.

7. There is no factual dispute that the advertisement was issued in pursuance whereof the applicant applied for the post along with other candidates. It is also not denied that the respondent No.5, Rinku Dey found place at the top of the merit list and the applicant secured the 5th position in the merit list. It is contended by the Id. Counsel for the applicant that the respondent No.5 has not yet joined and the post is still lying vacant, therefore, the applicant may be permitted to join the post after engagement as GDSBPM.

8. On the contrary, Id. Counsel for the respondents submits that the applicant is at Sl. No.5 of the merit list and cannot be appointed straightway even in the case of refusal of the selected candidate to join. It has been fairly conceded by the Id. Counsel for the respondents that no appointment



letter was issued to any of the selected candidates according to merit. The process of selection was stayed on account of pendency of the present petition.

9. We have considered the submission of both the parties. We are of the view that the petition may be disposed of finally with certain direction to the respondents.

10. In view of the peculiar circumstances of the case it is worth notice that nothing has been brought on record by either of the parties that the process of selection was cancelled by any conscious order. Hence, we direct the respondents to conclude the process of selection in accordance with the rules within a period of three months under intimation to all concerned. It is made clear that as the applicant was not listed as the next candidate in the merit list, no direction can be issued by this Tribunal for engagement of the applicant straightway.

11. Accordingly the O.A. is finally disposed of. No order as to costs.


(J. Das Gupta)
Administrative Member


(Justice V.C. Gupta)
Judicial Member

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