

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. 050/00686/2014 with MA 126/2016

**Reserved on- 22.02.2018.
Date of pronouncement 27.03.2018**

CORAM

**Hon'ble Shri A.K. Upadhyay, Member [A]
Hon'ble Shri J.V. Bhairavia, Member [J]**

.....
1. Udesh Giri S/o late RAdha Giri, resident of village & P.O.- -Parsa, Via-Sugauli, P.s. Majhaulia, District-Bettia (West Champaran).

.....Applicants

By Advocate : Shri J.K. Karn

VERSUS

1. The Union of India through Director General cum Secretary, Department of Post, Dak Bhawan New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Superintendent of Post Offices, West Champaran Division, Bettiah.854301.
5. Smt. Madhu Bala W/o Sri Ranjeet Kumar Verma, Village- Jamunia, P.O.- jasdi, Via-Rajpur, District- East Champaran, At present working as GDSBPM at Semra Labdaha Branch Post Office in account with Nariarpur Sub Post Office in West Champaran District- Bettia.

....Respondents

By Advocate : Shri H.P. Singh

O R D E R

Per Jayesh V. Bhairavia, Member (J): In the present OA the applicant has sought reliefs as under :-

"[8.A] The order of appointment of respondent no.5 on the post of GDSBPM at Semra Labdaha Branch Post office in account with nariarpur Sub Post Office, in west Champaran Division Bettia, Ordered by respondent no. 4 in August 2014, may be directed to be produced before this Hon'ble Tribunal and the same may be quashed and set aside.

[8.B] The respondent authority maybe directed to consider the claim of applicant for his appointment on the post of GDSBPM at Semra Labdaha Branch Post Office in account with Nariarpur Sub Post Office, in West Champaran Division Bettia.

[8.C] The cost of litigation, incurred in filing the instant O.A may be awarded upon the respondents.

[8.D] Any relief/reliefs as the applicant is entitled and Your Lordship may deem fit and proper in ends of the justice."

2. The applicant, in pursuant to an advertisement dated 31.10.2013, had applied for appointment to the post of GDSBPM at Semra Labedaha Branch Post Office in account with Nariarpur Sub Post Office in West Champaran, District-Bettiah. As the applicant was fulfilling the requisite qualification, his name was shortlisted and vide letter dated 27.05.2014 (Annexure A/2), issued by the Inspector, Post, Narkatiaganj, Sub division, Narkatiaganj, he was issued a letter to appear on 07.06.2014 alongwith all original certificates for verification.

3. It is stated by the applicant, in the month of August 2014, one Smt. Madhu Bala who secured lesser marks in interview/verification of documents, had been ordered to be appointed by the Superintendent of Post Offices, West Champaran Division, Bettia on the post of GDSBPM. Thereafter, under RTI application dated 05.09.2014 (Annexure A/3), the applicant was made available a comparative merit chart in which the applicant's name has been placed at sl. No. 98 and no details of his qualification or marks secured in Matriculation or percentage of marks stated in the said chart. In the said charge in column no. 9 i.e of "remarks" it has been stated that "*Not any document attached in application form.*" It is further submitted that he had applied with all requisite certificate thereafter he was shortlisted and called for interview/verification of documents by the respondents. He remained present for verification and produced the original documents of his credentials. However, the respondents has not considered his marks sheet and other documents. The applicant submits that he has secured highest marks but he has been denied his appointment on false ground that the applicant had not submitted requisite documents alongwith his applications. Though, the applicant had submitted/annexed all requisite documents and considering the same the application of the applicant was short listed and name of applicant was placed in comparative chart of applicant. Not only that, considering the same the respondents had called upon the applicant for interview/verification of document. Therefore, the applicant submits that the action of respondents is malafide, ill-motivated and in violation of Article 14 & 16 of the Constitution of India hence; this O.A.

4. The applicant has filed an M.A 126/2016 in the present O.A and stated that the respondents had issued for keeping the employment Notice dated

01.03.2016 to fill up GDSBPM post for Semra Labedeha Branch Post Office via Naraipur and sought relief to restrain the respondent from filling up the said vacancy as advertised on 01.03.2016 on the ground that the applicant has right to claim to be appointed on the said post.

5. In response to the O.A as well as M.A , the respondents have filed their written statement and denied the claim of applicant. The learned counsel for the respondents submitted as below :-

[i] As per the advertisement dated 31.10.2013, altogether 102 application were received before the cut off date i.e 29.11.2013. The same was processed by the SDI(P), Narkatiaganj and thereafter the work of verification of documents was also carried out him on 11.06.2014.. Thereafter, the SDI(P) submitted a verification report to the appointing authority i.e Superintendent of Post Offices, Bettiah on 07.07.2014.

[ii] As per the report only 52 candidates appeared for verification of documents and after verification, a comparative merit chart was prepared on the basis of marks obtained in Matriculation or equivalent examination. It is pertinent to mention that the top position securing in merit list was based on the qualifications in addition to meeting out the other conditions. The candidates from sl. 1 to 20 have refused in writing to join the post/not fulfilling of the requisite qualification/valid documentation. The candidates at sl. No. 21 of the merit list who fulfilled all conditions and had secured 72.85% marks in Madhyama Examination and their certificates were found genuine therefore the respondent shad issued the appointment order dated 21.07.2014 to the said successful candidate i.e Smt. Madhubala ie. Respondent no.5 herein. were allowed to join the post of GDSBPM on 28.07.2014..

[iii] The learned counsel for respondents further submitted that the application of applicant was received on 26.11.2013

and while receiving the same, the receiving clerk had on the relevant place of application duly put cross marks with remark "N/R" (not received under dated 26/11. (Annexure R/1 & 2 refer). The same remarks has also been put by the Sub Divisional Inspector, Narkatiaganj while preparing the comparative merit list. He has specifically mentioned that "*Not any document attached in the application form.*" (Annexure R/3 refers). As per the advertisement notice dated 31.10.2014 clearly stipulate the condition that candidates are required to submit all the education certificates and other documents alongwith the application failing which such applications will not be considered (Annexure R/1 refers). The copy of application of the applicant are placed on record (Annexure R/2 refers). Therefore, in fact, the applicant does not have any right to claim for consideration of his application.

It is further submitted that as per the existing procedure, to call every candidate to appear for verification of the documents, therefore the applicant appeared for verification of documents on 07.06.2014. On that day, he did not submitted any documents or certificates. On subsequent date for verification of documents on 11.6.2014, the applicant again came for verification of his documents and brought some educational mark sheet/certificates. However, not brought the requisite documents as stipulated in condition no. 1,2 & 3 of the advertisement. The said fact has been accepted by the applicant in his written confirmation of non-submission of requisite three documents, to substantiate this submission the respondents has relied upon Annexure R/4.

[iv] It has also been submitted that with a view to give all the opportunity to the meritorious applicants, the documents/certified which were produced by the applicant first time on the date of verification from the said documents a

School Leaving Certificate NO. 208 dated 04.11.2008 from Sanskrit Ucchya Vidyalaya Rampur P.O.- Sahasram Darbhanga submitted by the applicant at the time of verification was sent for verification to the Headmaster of the school but the cover containing the letter was received back undelivered with remarks of postman that "*there is no such school on such address.*" Thus SLC was bogus. The applicant's certificates is under doubt for which no clarification has been given. Even otherwise the applicant does not have any vested right to claim appointment. In view of the above this O.A is liable to be dismissed.

6. Heard the parties and perused the records and considered their submissions.

7. On perusal of records it reveals that the advertisement dated 31.10.2013 for the post of GDSBPM were issued by which applications were invited from eligible candidates on or before 29.11.2013 with conditions stated in the said advertisement that all the applicants required to submit relevant documents/certificate with regard to conditions no. 1 to 12, as per the condition no.12 its contemplated that all the education certificate and other documents required to be submitted alongwith the application. It is also noticed that the applicant had not submitted the requisite documents alongwith his applications however, only on the day of verification of the documents of all the applicants he produced certain documents and not fulfil the conditions no.1 to 12 of the advertisement. After scrutiny and verification of all the documents of the applicant the respondents had prepared the merit list and according to it only the sl. No. 21 of the merit list became first successful candidates to be selected and appointed. The respondents had issued the appointment order in favour of respondent no.5 on being found first successful candidate and pursuant to it respondent no.5 joined the duty on 28.07.2014. It is also noticed that vide order dated 25.01.2016 the respondents had transferred Smt. Madhu Bala respondent no.5 of this O.A from Semara Labedeha Branch Office to refugee camp Branch of in account with Naya Tola S.O. under west Champaran and accordingly joined the said place on

09.02.2016. Due to transfer of respondent no.5, the post of GDSBPM of Semara Labedah BO, had fallen vacant and after the approval of competent authority, the respondents had issued fresh advertisement for filling of the said post on 01.03.2016. The present applicant has claimed that he should be considered for the appointment on the said post with regard to the first advertisement dated 31.10.2013, in the said recruitment process he remained unsuccessful and thereafter by way of filing M.A application in the O.A sought relief to restrain the respondent to fill up the vacant post as advertised on 01.03.2016 and also claimed to be appointed. The submission of the applicant is against the provision of terms and conditions stipulated in he advertisement dated 31.10.2013. he failed to submit requisite documents as per the requirement of the employer. No only that the applicant cannot claim any vested right to be appointed with regard to recruitment process undertaken by the respondents. The respondents had only prepared the comparative chart of all the applicants whose application had been received by the office of the respondents wherein the application of the applicant was also considered and his name was included in the said list. It is absolutely incorrect on the part of applicant to claim any right only because of inclusion of the name in the comparative chart of the applicant. It is settled principle of law that empanelment by itself does not amount to selection or create vested right for appointment. Hence, the submission and claim of the applicant are contrary to the conditions of recruitment rules as well as against the settled principle of law. It cannot be said that any right of applicant has been infringed by the respondents even otherwise the applicant does not have any fundamental right to claim appointment only because he had applied in response to the advertisement. The fact is the applicant remained unsuccessful in the recruitment process which was held in the year 2013, the applicant cannot claim any indefeasible right as prayed for in this O.A., therefore no interference is called for. The present O.A, is devoid of merit and hence deserves to be dismissed. Accordingly, the O.A alongwith M.A are dismissed with no order as to costs.

(J.V. Bhairavia) M [J]

(A.K. Upadhyay] Member [A]

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