

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

**OA No. 050/00533 of 2014**

**Date of order reserved: 21.02.2018**

## **Order Pronounced on 06.04.2018**

**(Patna, this the day of April, 2018)**

# CORAM

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

Kailash Kumar Bharti son of Shri Bhagwat Paswan, resident of vilge Nirmali P.O- Nirmali District- Supaul.

.....Applicant

**By Advocate :** Shri S.K. Bariar

## Versus

1. The Union of India through the Director General, Department of Posts, Sansad Marg, New Delhi.
2. The Assistant Director (Rectt) O/o Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna
3. The Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna.
4. The Post Master General, Northen Region, Muzaffarpur.
5. The Superintendent of Post Offices, Madhubani Postal Division, Madhubani.

### .....Respondents

**By Advocate:** Shri Bindhyachal Rai

## ORDER

**Jayesh V. Bhairavia, M [ J ]:-** In the present OA, the applicant prays for a direction to the respondents to issue appointment order in favour of the applicant to the post of Postman, permitting them to join the said post with all consequential benefits.

2. The brief facts of the case are as under:-

(i) Pursuant to an advertisement published by the Office of the Chief Postmaster General, Bihar Circle, Patna inviting application for recruitment on the post of Postman, the applicant (belongs to SC category) applied alongwith all required documents for the said post. The candidature of applicant was considered and thereafter he was issued Admit Card to appear in written test scheduled to be held on 20.01.2013. (Annexure A/1 refers).

(ii) On the basis of marks obtained by the candidates, a merit list was prepared however the name of applicant was not find place in surplus list. Later on he came to know that the selected surplus candidates have been sent for training. Since the applicant anyhow could know that he has secured 38 marks against SC vacancies therefore he was also expecting the same, he made a representation to the Chief Postmaster General, Bihar Circle Patna but elicited no response. He also referred a name of Shri Kumar Uday, OBC candidate who was in surplus merit list who obtained lesser marks had been sent for training. Being aggrieved by the denied of his appointment and any response of his representation the applicant has no option except to approach this Tribunal hence this O.A.

3. In response to the notice, the respondents have filed their written statement and supplementary written statement and submitted as below :-

(i) The learned counsel for respondents have submitted that the said Kumar Uday has secured 55 marks whereas the applicant has got only 38 marks. The merit list prepared by the department is as below :-

| Sl.No | Name of the Candidate    | Designation                            | Rll No. | Marks Obtained |
|-------|--------------------------|--|---------|----------------|
| 1     | Sri Ajay Kumar           | GDS MC, Sanpatahi B.O. (Andhra S.O.)   | MDB-41  | 79             |
| 2     | Sri Surya Mohan jha      | GDS, BPM, Dahora, B.O. (Sakri S.O.)    | MDB-28  | 59             |
| 3     | Sri Kumar Uday           | GDS, MDMC, Khajuri B.O. (Bhowara S.O.) | MDB-39  | 55             |
| 4     | Sri Kailash Kumar Bharti | GDS MC, Tamuriya S.O.                  | MDB-43  | 38             |

(ii) It has further been contended that the two candidates namely Satya Narayan Jha and Shri Bhogilal Yadav lodged complaint that Surya Mohan Jha and Ajay Kumar were not appeared in the aforesaid examination. After inquiry it was found that said

Surya Mohan Jha had himself appeared in Postman examination 2011 at Muzaffarpur Centre but Shri Ajay Kumar had not appeared at Postman examination-2011 due to family reason and this fact has been accepted by Ajay Kumar on 24.04.2013. After the inquiry report, the result was published by SPO's Madhubani Division, Madhubani on 30.04.2013 which is as below :-

| Sl.No | Name of the Candidate | Designation                            | RII No. | Category |
|-------|-----------------------|--|---------|----------|
| 1     | Sri Surya Mohan jha   | GDS, BPM, Dahora, B.O. (Sakri S.O.)    | MDB-28  | UR       |
| 2     | Sri Kumar Uday        | GDS, MDMC, Khajuri B.O. (Bhowara S.O.) | MDB-39  | UR       |

(iii) It has further been stated that there was 02 post of postman was for the year 2011 in Madhubani Division which was approved by the C.O. and there was neither any surplus result of any category was received nor any order/instruction was received from C.O. (iv) The supplementary W.S has been filed on direction of this Tribunal passed on 23.11.2017 in O.A 533 of 2014 in which it respondents were directed to produce certain documents. It has further been submitted that no SC, ST candidates including Sri Kailash Kumar Bharti have cleared the bench mark of UR as UR in Madhubani Division in the Postman Examination 2011 held on 20.01.2013. Therefore the respondents submits that this O.A has no merit and is liable to be dismissed.

3. Heard the parties, perused the documents and considered their submissions. It is noticed that there were only two sanctioned posts of Postman for the year 2011 in Madhubani Division for UR Category candidate. The respondents have clarified the said fact in their written statement and placed a copy of vacancy position and approval for recruitment for the year 201a-13. (Annexure R/1 refers).

4. In the present case, the respondents had conducted the examination in the year 2013 with respect to the vacancy of two posts mainly for the year 2011 of Madhubani Division. Pursuant to advertisement of said post, the applicant had applied and appeared in the examination. However the applicant remained unsuccessful and the two more meritorious candidate were appointed on the said post against the vacancy of 2011. In view of the factual matrix of the case, we do not find a reason to interfere in the decision of the respondent. The applicant does not have any fundamental or vested right to claim appointment on being unsuccessful. Therefore, the O.A is dismissed on ground of being devoid of merit. No costs.

(Jayesh V. Bhairavia ) M [ J ]

(A.K. Upadhyay) M ( A )

/mks/