

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

OA No. 050/00635 of 2014

Date of order reserved: 23.02.2018

Order pronounced on 28.03.2018

(Patna, this the day of March, 2017)

CORAM

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

Ajay Kumar Singh, S/o Ram Nath Singh, R/o Village – Pithurit Tawkal Tola, P.O. Kanhuli Manohar, P.S. Banipur, District – Chapra.

.....Applicant

By Advocate : Shri S.K. Bariar

Versus

1. The Union of India through the Director General, Patna, Department of Posts, New Delhi.
2. The Chief Post Master General, Bihar Circle, G.P.O. Complex, Patna.
3. The Post Master General, Northen Region, Muzaffarpur.
4. The Senior Superintendent of Post Office, Saran Division, Chapra.
5. The Inspector of Post, North Sub-Division, Chapra.

.....Respondents

By Advocate: Shri Rabindra Rai.

ORDER

Jayesh V. Bhairavia, M [J]:- In the present OA, the applicant has prayed for the reliefs as under:-

"(i) The applicant humbly prays that order No. H1-24/78 dated 31.07.2014 (Annexure A/14) may be treated illegal and be quashed and set aside.

(ii) The applicant further prays that respondents may be directed to consider the case of the applicant for appointment to the post of GDSBPM, Chorouwan , B.O, Banipur SO, Saran Postal Division, Chapra.

(iii) Any relief / reliefs may be granted to the applicant for ends of justice."

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

(i) On 17.04.2013, the Senior Superintendent of Post Offices, Saran Postal Division, Chapra, had issued a public advertisement whereby the applications were invited from the eligible candidates to fill up the vacancy of the post of GDSBPM, Chorouwan, BO, Banipur SO, Saran Postal Division, Chapra. (Annexure A/1 refers).

(ii) The said advertisement laid down certain conditions to be fulfilled by the candidates. In pursuance of the said advertisement, the applicant had submitted his application for the said post before the cut-off date of 16.5.2013. Along with the said application, the applicant had annexed the requisite educational marks sheet / certificate and other documents as per stipulated conditions of the said advertisement. After considering the same and scrutiny of the documents, the applicant was called for verification of documents on 13.8.2013. However, on the said date, verification could not be completed and another date was given i.e 30.11.2013, on which date the applicant appeared. However, on the said date also, the verification/interview was deferred to 18.1.2014, and in pursuance thereof, the applicant had appeared on the said date for verification of his documents. After verification of the documents, the statement of the applicant was recorded by the respondents, and thereafter, the applicant was waiting for the declaration of the result and the final decision with regard to appointment for the said post of GDSBPM. Since no appointment was made nor any information received in that regard, the applicant had filed OA 292 of 2014 before this Tribunal for direction to declare the result of verification / interview conducted in pursuance of the advertisement dated 17.4.2013 (Annexure A/1). This Tribunal, vide order dated 16.4.2014, observed that the prayer in the OA is to direct the respondents to publish the result. The OA was disposed of with advice to the respondents to complete the process expeditiously or pass speaking

order within a period of four months from the date of receipt / production of the order. (Annexure A/13 refers).

(iii) The respondents have failed to comply with the directions of this Tribunal within the time frame as directed. Therefore, the applicant had preferred a contempt petition against the respondents by way of CCPA No. 102 of 2014 for non-compliance of the Tribunal's order. It is stated that the during the pendency of the said contempt petition, the respondents, vide order dated 31.7.2014, cancelled the recruitment process which had been initiated with the issuance of advertisement notice dated 17.4.2013 for filling the post of GDSBPM, Chorouwan BO, Banipur SO (Annexure A/14 refers). Subsequently, in response to the direction issued in OA 292 of 2014, the respondents had passed a reasoned and speaking order dated 1.10.2014 wherein it was stated that after examining all the facts and circumstances, the competent authority was pleased to issue an order of cancellation of advertisement keeping in view the complexity and transparency in the appointment vide office memo dated 23.7.2014. Accordingly, the action was taken by the Senior Superintendent of Post Offices to cancel the advertisement vide order dated 31.7.2014 for its re-advertisement thereafter.

(iv) The respondents have filed their show cause in the CCPA, and this Tribunal, vide order dated considering the show cause reply and the speaking order passed by the respondents, dropped the contempt proceedings. The applicant, through the present OA, has challenged the legality of the order dated 31.7.2014 (Annexure A/14) whereby the respondents had cancelled the recruitment process undertaken in pursuance of public advertisement dated 17.4.2013 and had prayed for quashing and setting aside the same and also prayed to consider his case for appointment to the said post of GDSBPM.

(v) The learned counsel for the applicant, Shri S.K. Bariar submitted that after verification of documents of the candidates, out of five candidates, only three candidates, including the applicant were found to be successful. There is no technical or administrative flaws requiring them to cancel the recruitment process. As per GDS prescribed rules, if one of the candidates among three candidates is found to be eligible, selection should be finalized. Therefore, the decision of the respondents for cancellation of the recruitment process is contrary to the conditions prescribed by the Postal Department. It is further contended that there is no administrative or technical reason for cancelling the public notice / advertisement dated 17.4.2013. It is only because the applicant could not fulfil the illegal desire of the Senior Superintendent of Post Offices, Saran Postal Division, the said advertisement dated 17.4.2013 was cancelled. There is only ill-motive behind the cancellation of the recruitment process. This is apparent from the fact that the candidates were called for verification of documents / interview thrice. The reason assigned by the respondents for the decision is just an eye-wash, and it has been done on extraneous consideration, and thereby the respondents have violated Articles 14, 16 and 21 of the Constitution of India, and, as such, deprived the applicant from his legitimate right to claim appointment.

3. The respondents have filed their reply and denied the contentions of the applicant. Shri Rabindra Rai, the learned counsel for the respondents vehemently submitted that the claim of the applicant is misconceived and contrary to the facts of the case on record. It is submitted that the detailed reasons are given in the speaking order dated 1.10.2014 for cancellation of the recruitment process and after considering the detailed reasons, the competent authority, vide order dated 31.7.2014, cancelled the advertisement dated 17.4.2013.

4. It is further submitted by the learned counsel for the respondents that after the recruitment process initiated in pursuance of the said advertisement dated 17.4.2013, altogether 11 applications, including the application of the applicant were received up to the last date of receipt of application, out of which six applicants had neither given the disability certificate nor had they claimed to be of PH category. Therefore, their candidatures were not considered. The comparative list of remaining five candidates as per the priority of percentage of their marks in the matriculation was prepared. Annexure R/1 refers. The documents received from the candidates along with the comparative list of the said five candidates were sent to the Sub-divisional Inspector of Post office, North Sub-division, Chapra on 13.5.2013 for verification and report. Vide letter dated 19.6.2013 through Registered post, the Secretary, Bihar Secondary Examination Board, Patna and the Head Master, M.D. High School, Kanhauli, P.O – Baniapur (Saran) were requested for verification of the genuineness of the matriculation certificate and marks sheet of Shri Ajay Kumar Singh, S/o Late Ram Nath Singh as his percentage of marks in the matriculation examination was found to be the highest among all the five candidates as per the documents / certificate enclosed with their application.

5. It is further contended that during the pendency of the said recruitment process, the respondents had received complaints from one Shri Dhanbeer Singh alleging that he had not received any letter for verification of documents. He also met the Divisional superintendent in his chamber and alleged verbally that no wider publicity of the vacancy was held due to influence of one Shri Ajay Kumar Singh whose relative Shri Sanjay Singh, GDSBPM, Kanhauli Manohar was working in the same department. Not only that, the respondents have received complaint from other part of the said area that proper publicity of the vacancy notification was not made just with a view to favouring some other candidates. Therefore, the SDI (P), North

Sub-division, Chapra was asked to examine and inquire into the complaints against insufficient publicity of the vacancy for the post and also non-receipt of application of Shri Dhanbeer Singh. The said inquiry officer submitted his report on 6.1.2014 that at certain places, notice / communication of the advertisement were received at local office but the local office staff were not ready to give statement to that effect. The Transit Clerk of Baniapur Block had accepted to receive the R.L but was not ready to give it in writing. The Headmaster of Primary School, Chorauwan categorically refused to have received the R.L and denied his signature on the delivery receipt. The SDI (P) suggested that as such there was no proper publicity of the vacancy, therefore, a fresh advertisement is required to be issued. The respondents counsel vehemently emphasized that during the verification of the documents, a lot of discrepancies were found. The applicant had denied his signature on the application which was submitted with for claiming appointment. He was surprised to find his fake application. Matriculation marks sheet and matriculation certificate during the verification were denied by him as the same were not given by him or submitted along with application which was received by the Divisional office on 21.3.2014, whereas he accepted other documents such as disability certificate, matriculation examination admit card and registration slip for matriculation examination, employment exchange card and income tax certificate as given with the application where self attested with same signature as signed on the application and self attestation of the marks sheet and the certificate.

6. It is also contended that instead of the mark sheet and certificate given with the application, he made his request to the respondents to include another matriculation marks sheet having the same Roll No. and Roll Code, year of examination etc in the marks sheet given with the application but having difference in the subject-wise marks, the total marks, division secured and the serial no. of the marks sheet.

Similarly, in the certificate, there were difference in the division secured and the serial no. of the certificate. Other particulars were same. The differences between the marks sheet and certificate received with the application and those produced at the time of verification are as follows:-

1	2
Details of mark sheet as with the application for the post	Details of mark sheet as given with the complaint dated 19.3.2014 as well as at the time of verification
(i) Total marks -722 out of 900	743 out of 900
(ii) Serial No. 000216699	000290920

The applicant had complained that the mark sheet and certificate of his matriculation examination found with his application are not correct, and somebody has replaced, and the original which he had produced at the time of verification are correct. Therefore, due to this ambiguity, the complaint of the applicant was sent for inquiry by the respondents and in pursuance to it, the Inspector of Post, vide his report dated 10.5.2014, informed that the complaint of the applicant regarding change in his application i.e mark sheet and the application seems to be quite wrong. It is also found that the signature of the applicant on the application and its enclosures are found to be same. It is further observed that the Inspector of post had recommended for re-advertisement. It is further submitted that once the respondents authority came to know about discrepancy in the marks sheet and certificate of the applicant at the time of verification and the applicant himself had produced a different marks sheet other than those submitted along with his application, the respondents did not find it appropriate to consider the candidate of the applicant any further. The learned counsel for the respondents submitted that the competent authority deemed it fit to cancel the recruitment process. The said decision is justice and no prejudice can be

said to have been caused to the applicant. Therefore, the applicant is not entitled to any relief.

7 Heard the parties and perused the records. In the present case, the applicant had challenged the legality of the decision dated 31.7.2014 whereby the respondents had cancelled the recruitment process initiated in pursuance of advertisement dated 17.4.2013 for filling up vacancy for the post of GDSBPM in question on the main ground that the said decision and order is against the provision of instructions issued by the postal department dated 7.10.2010. The said impugned order has been passed without any reason. As such, there is no technical and administrative flaws in recruitment process and with ulterior motive had cancelled the recruitment process. It is the further case of the applicant that the advertisement was issued for filling the post of GDSBPM in question only by physically handicapped person. Accordingly, the applicant, being the PH category had applied for the same and as the comparative chart prepared of five candidates, the applicant stood in the first merit list. However, his result was not declared nor was he appointed, therefore, he approached this Tribunal at earlier point of time in past. This Tribunal had directed the respondents to declare the result within stipulated time and instead of issuance of offer of appointment to the applicant, the respondents had cancelled the entire recruitment process and deprived the applicant of his right to appointment. It is the further contention of the applicant that on the date of verification of his mark sheet, he had produced his original mark sheet and certificate but he was surprised and shocked to find that his mark sheet and certificate attached with the original application are different than the original though the name of the applicant on the mark sheet and certificate are same and for this he had made complaint to the respondent authorities. On this plea, the applicant claim to grant relief sought in this OA.

8 It is noticed that as against the submissions of the applicant, the respondents have submitted their justification with regard to their decision for cancellation of recruitment process by placing reliance on the facts and circumstances stated in their written statement as well as the reasoned and speaking order dated 1.10.2014 passed in pursuance of order passed by this Tribunal on 16.4.2014 in OA 292 of 2014. It is noticed that the respondents have very categorically contended that on the date of verification of requisite documents of the applicant, it was found that the mark sheet and certificate submitted by him along with his application did not tally with the original marks sheet and certificate produced on 18.1.2014. The applicant himself had stated that there is difference of marks sheet and certificate which were found along with his application. He denied the correctness of the same and produced another marks sheet and certificate with a request to the authority to include the new one as original and genuine for verification purpose in respect of his candidature. The respondents had found a lot of discrepancies as shown in the table given above and thought it fit to put the entire case of the applicant for inquiry and not to proceed further with the application of the applicant. At this juncture, once the respondents found it fit not to consider the case of the applicant any further due to discrepancy found in the credential of the applicant, the candidature of the applicant cannot be accepted further and thereafter, the applicant does not have any right whatsoever to claim any appointment on the basis of those doubtful marks sheet and certificate. Therefore, the submission of the applicant is devoid of merit and not acceptable. It is also noticed that the respondents had also received a lot of complaint with regard to lesser publicity of the vacancy. The report of the inquiry in this regard also suggests that there is lesser publicity of the vacancy. It is seen that out of five candidates, only three candidates remained present for verification, including the applicant, out of these three,

the credential of the marks sheet and certificate of the applicant failed to pass the verification test and hence, only two candidates remained in the selection process which is not the effective number of valid applicants for finalizing the recruitment process. As prescribed in the letter of Department of Posts dated 7.10.2010, the effective number of candidates/applications should be at least three in number, whereas in the instant case, there are only two candidates in the fray, excluding the applicant. Therefore, the respondents were justified in their decision in cancelling the recruitment process with a view to re-advertise for filling the vacancy of post of GDSBPM. The said decision cannot be said to be an arbitrary or illegal. In fact, there is no indefeasible right attached with the applicant to claim for appointment to a post. Therefore, no fundamental right of the applicant can be said to have been infringed or there be any occasion of violation of Article 14, 16 and 21 of Constitution of India.

9 In view of the above analysis of the submissions and counter submissions of the parties as well as material on record, we are of the view that the decision/order of the respondents dated 31.7.2014 cancelling the advertisement notice dated 17.4.2013 for filling up the vacancy of GDSBPM, Chorouwan B.O in account with Baniapur SO, Saran Postal division, Chapra does not call for any judicial interference. The respondents are always under obligation to act fairly in respect of public employment which should be based on wider publicity in which more and more meritorious candidates should be given opportunity to participate. In the result, the OA is dismissed. However, it is always open for the applicant to participate in the next recruitment process to be initiated by the respondents. No order as to costs.

(Jayesh V. Bhairavia) M [J]

(A.K. Upadhyay) M (A)

/cbs/

