

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. 050/00754/2014 with OA 878/2014

**Reserved on- 23.02.2018.
Date of pronouncement 28.03.2018**

CORAM

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

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1. Raju Kumar Jha son of Sri Yoga Nand Jha, resident of Mohalla – Bajitpur Mohdauli, P.O.- Subhankarpur, P.s. Laheriasarai District- Darbhanga.

.....applicant

By Advocate : Shri J.K. Karn

VERSUS

1. The Union of India through the Secretary cum D.G. Government of India Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
5. The Director General, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
5. The Director (DE) O/o the Director General Government of India Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
4. The Assistant Director General (DE) O/o of the Director General Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
5. The Chief Postmaster General, Bihar circle, Patna.

....Respondents

By Advocate : Shri Hare Ram Singh

with

OA/050/00 878/2014

2. Amod Kumar Sinha S/o Sri Ram yatan Sinha At Nai Basti Malviya nagar, Mahadeva, District- Siwan..

.....applicant

By Advocate : Shri J.K. Karn

VERSUS

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4. The Assistant Director General (DE) O/o of the Director General Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
5. The Chief Postmaster General, Bihar circle, Patna.

....Respondents

By Advocate : Shri M.D. Dwivedi

ORDER

Per Jayesh V. Bhairavia, Member (J): The two O.As bearing No. 754 & 878 of 2014 have been filed for the similar reliefs which are as under :-

"[8.A] The result of Limited Department Competitive Examination for promotion to the post of Inspector of Posts Examination (66.66%) for the year 2013 held from 14th 15th September, 2013 declared vide F.No. A-34013/02/2014-DE Dated: 7th February 2014, issued under the signature of Asstt. Director General (DE) Government of India Ministry of Communications & IT, Department of Posts (DE Section), Dak Bhawan, Sansad Marg New Delhi as contained in Annexure-A/1 may be declared erroneous so far the same relates to SC candidates.

[8.B] The respondent authority maybe directed to publish a fresh/Supplementary result of the Limited Departmental Competitive Examination for promotion to the post of Inspector of Posts Examination (66.66%) for the year 2013 held from 14th 15th September 2013 by applying roster correctly in accordance with rule/law.

[8.C] The respondent authorities may be directed to declare the result of as successful with all consequential benefits in the Limited Departmental Competitive Examination, for promotion to the post of Inspector of Posts Examination (66.66%) for the year 2013 held from 14th 15th September, 2013 as he has secured 942/1200 marks and is just below the 5 successful candidates in OC category.

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

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

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

[i] The no.1 & 2 were appointed as a Postal Assistant for Darbhanga and Siwan Postal Division in the year 2006 and 2003. The I/c for submitted that the applicants had appeared in Limited Departmental Competitive Examination (LDCE) for promotion from Postal

Assistant/sorting Assistant to Inspector of Post held on 14th and 15th September 2013. The result was published vide letter dated 7th February 2014 (Annexure A/1 refers). in which altogether 8 candidates were declared successful (OC-5, SC-3). The last qualified candidate from Bihar circle belongs to OC category and he has secured 948 marks whereas the has secured 942 marks.

- [ii] The s further submit that there were excess number in SC category whereas shortfall in OC category in IP Cadre but the vacancy position was incorrectly calculated ignoring the roster while declaring result of IP Examination, which caused injustice to the applicant. Thereafter the s submitted representations before the D.G. (Posts) submitting all his points categorically are reproduced as under :-

Pragaraph -3 Reservation roster Register 2013 for the cadre of Inspector of Post Office (Annexure A/1) which are as follows :-

- (i) on page 7, summary of post based roster register is available.

Description	UR	SC	ST	Total
Person Available	53	13	06	72
Actual Entitlement	57	10	05	72
Total :	(-)4	(+)3	(+) 1	
	Shortfall	Excess	Excess	

i.e 03 SC persons were excess before advertising the vacancy position of IPO's cadre for the year2013. The post based roster was introduced vide Govt. of India Deptt of Personal & Training OM No. 36012/2196-Estt (Res) of 02.02.1997 which clearly directs that "Excess if any would be adjusted through future appointments and the existing appointment would not be disturbed" and a clarification issued vide C & AG No.9/NGE/98 no. 108/NGE/APP/3-97 of

23.01.1998 clearly directs that "*Backlog of SC/ST/OBC is to be determined afresh as per revised post based roster.*"

The office of the Chief Postmaster General, Bihar circle, Patna, itself had prepared the post based roster register of IPO's Cadre for the year 2013 (annexure -1 refers). Against Sl 61, 66 & 67, Excess has been noted and in the summary excess 03 has been shown against SC community. The total vacancy for LDCE for IPO's cadre was calculated to be 08 (OC=5, SC=03 and ST=Nil). Three SC personal was excess, even though three (03) posts were declared for SC community and the percentage of reservation of SC category was further increased ignoring instructions for the post based roster vide OM dated 02.07.1997 therefore the SC persons are now excess.

The further submits he has secured 942 marks out of 1200 and he was placed at sl. No. 06 in the merit list of Bihar circle. The raising all the abovementioned facts had submitted a representation for reverification/consideration which are still pending. Therefore the has no option to approach this Tribunal through this O.A.

3. The learned counsel for respondents have filed their written statement and submitted as under :-

[i] The s were appointed as a Postal Assistant. After completion of induction training they appeared in Limited Departmental Competitive Examination for selection to the post of Inspector of Posts in the year 2013. There were 08 vacancies altogether for departmental quota out of which 05 post for OC, 03 post for SC were reserved. The last qualified candidate from Bihar circle in OC category had obtained 948 marks. The no. 1 obtained 943 marks and no. 2 obtained 938 marks so declared unsuccessful.

[ii] The vacancy position of Inspector of Posts was announced for the year 2013 was as under :-

Departmental	UR	SC	ST	Total
Quota	05	03	NIL	08
	(Backlog for 2007)			
Direct Quota	UR	OBC SC	ST	Total
	NIL	NIL	NIL	NIL

The l/c for respondents further submitted that from the abovementioned statement it is clear that the backlog was for the year 2007 which was announced for filling up the same through LDCE for promotion to the post of Inspector, Posts for the year 2013. The s appeared against the UR category (against 05 vacancies) and the merit list was prepared according to their performance in the examination. There was 03 backlog vacancies for SC category which was to be filled up by direct recruitment (from outsides) not through LDCE therefore there is no excess vacancy was announced against SC community for the year 2013. Therefore the L/c for respondents submits that there is no merit in the case therefore it is liable to be dismissed.

4. The has filed rejoinder to the written statement and reiterated the earlier submissions. Apart from this, he further submitted that they have qualified in subsequent LDCE and have been promoted to IP cadre not the only relief of the s is that to get their notional promotion.

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

6. It is well settled principle of law that once a candidate participates in the recruitment process and remained unsuccessful thereafter, subsequently, cannot challenge the recruitment/selection process. In the present case admittedly, the advertisement for filling up vacancies for the post of Inspector of Posts in the year 2013 wherein 05 vacancies were earmarked for the UR category, the s applied

under the said category and the s namely Shri Raju Kumar Jha was placed at sl no.6 in Birhar Circle and Shri Amod Kumar Jha was placed at sl.no,7 in merit list of said LDCE and both the s could not succeed in the LDCE for further consideration as there were only 05 vacancies. Now in the instant OA the s have challenged the said result published on 07.02.2014 on the ground that the respondents had not maintained the roster of SC category and erroneously declared the result by appointing excess posts for promotion of Inspector, posts. It is noticed that the at the time of examination for promotion to the post of Inspector of Posts for the year 2013 was held from 14th 7 15th September 2013, the competent authority had declared that for departmental quota there were 05 post are earmarked for unreserved category, 03 for SC category in total 08 posts were vacant and considered it to be filled up by way LDCE. The was very much aware about the said position of vacant posts for unreserved category as well as reserved category. Knowing the said fact, he applied under unreserved category and appeared in the LDCE and remained unsuccessful, therefore it is now not open for the to challenge the said selection process once they have participated in it. The respondents had justified their action for filling up the vacancies for promotion to the post of Inspector, Posts (66.66% i.e for departmental quota) as on 2013, it is further clarified by the respondents that the backlog of SC category was for the year 2007 (for direct quota) which was announced for filling up the same through LDCE for promotion to the post of Inspector, Posts for the year 2013, in accordance with provision of Rule 38 as such there is no excess post of SC filled up by the respondents. It is apt to note that there is no vested right of the to claim for appointment. It is also required to mention here that in the subsequent LDCE the s remained unsuccessful and promoted in IP cadre. The relief sought by the for direction to declare the result of as successful candidate or alternatively for notional promotion are not tenable. Accordingly, the O.A is dismissed with no order as to costs.

(J.V. Bhairavia) M [J]

(A.K. Upadhyay] Member [A]

/mks/

