

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00085/2017

Date of Order: This, the 03rd day of April 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

SRI NAYAN TALUKDAR
Son of Sri Rajeswar Talukdar
Resident of Vill/P.O- Dadara, Hajo, Kamrup
Presently working as GDS MD
Gramin Dak Sewak Mail Deliverer
Sub Post Office, IIT Guwahati
PIN – 781039.

...Applicant

By Advocates: Mrs. D. Das Roy & Mrs. P. Rai Baruah

-VERSUS-

1. THE UNION OF INDIA
Represented by the Secretary
To the Government of India
Department of Posts, Ministry of Communication
New Delhi – 110001
2. THE CHIEF POSTMASTER GENERAL
Assam Circle, Meghdoot Bhawan
Panbazar, Guwahati – 781001, Assam
3. THE ASSISTANT DIRECTOR (STAFF)
Office of the Chief Postmaster General
Assam Circle, Meghdoot Bhawan
Panbazar, Guwahati – 781001, Assam
4. THE SENIOR SUPERINTENDENT OF PST OFFICES, Guwahati Division,
Guwahati – 781001, Assam

5. THE SUPERINTENDENT, POSTAL STORES DEPORT
Guwahati – 781021, Assam
6. THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
Guwahati East Sub-Division, Guwahati – 781007, Assam
7. SRI PRADIP DAS
Postman Assam Sachivalay (ASL), pin – 781008
8. SMT ARATI DAS
Postman Guwahati GPO, pin – 781001

... Respondents

By Advocates: Mr. N. Baruah & Mr. D.N. Sharma

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):

Being aggrieved with the letters dated 12.01.2017, 20.02.2017 and 14.03.2017 issued by the Assistant Director (Staff), O/o the Chief Postmaster General, Assam Circle whereby rejected the representations, the applicant has preferred the instant O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:-

- “8.1 The Hon'ble Tribunal may be further pleased to set aside and quash the letters dated 12.01.2017, 20.02.2017 and 14.03.2017 issued by the Assistant Director (Staff), o/o the Chief Postmaster General, Assam Circle rejecting the representations of the applicant with all consequential benefits.
- 8.2 That the Hon'ble Tribunal may be pleased to set aside and quash the entire selection process initiated through advertisement letter dated 23.09.2016 issued by the Senior Superintendent of

Post Offices, Guwahati Division for promotion from among MTS and GDS to the cadre of Postman through Departmental Competitive Examination including the answer key provided by the respondent authorities and the result declared by the Assistant Director (Staff), o/o the Chief Postmaster General, Assam Circle on 07.11.2016 with all consequential benefit.

- 8.3 That the Hon'ble Tribunal may be pleased to set aside and quash the notification declaring the result for the said Departmental Competitive Examination which was declared on 07.11.2016 where, for the Guwahati Division, 11 numbers of candidates were shown as successful. It appears that out of the 7 Open category vacancies in the Guwahati Division, two candidates who were placed at Sl. No. 1 and Sl. No. 7 were able to secure high enough marks so as to make it into this category (i.e. OC) despite belonging to OBC and SC category respectively. The meant that one more person, namely Sri Arati Das at Sl. No. 8 also got selected in the lone vacancy for SC candidate.
- 8.4 The Hon'ble Tribunal may be pleased to declare as illegal, unconstitutional and declare ultra-virus and arbitrary to the Constitution of India the Rule 15 of Appendix 37 of Postal manual Volume IV, and further direct the respondents to correct the answer key provided by the authorities so far as it relates to question nos. 4, 7, 22, 68 and 83 of the aforementioned question paper and re-evaluate the answer book/answer script of the applicant based on the corrected answer key and on the basis of such re-evaluation, award the marks and determine the position of the applicant vis-à-vis the other candidates of the Guwahati Division who had participated in the said Departmental Competitive Examination and take consequential actions including promotion of the applicant and/or cancelling the promotion of any other candidate with all consequential benefit.
- 8.5 Any other relief(s) as this Hon'ble Tribunal may deem fit and proper."

2. Mrs. P. Rai Baruah, learned counsel appearing on behalf of the applicant submitted that applicant was appointed as a Gramin Dak Sewak, Packer in the IIT Sub Post Office vide office order dated 28.04.2006 and reported for duty on 01.05.2006. On 23.09.2016, a Departmental Competitive Examination for recruitment in Postman Cadre for the year 2016-17 under 50% by examination from eligible MTS candidates and 50% from eligible GDS was notified. The examination was scheduled to be held on 30.10.2016. According to the learned counsel, the applicant was one of the candidate from GDS side. The result of the Departmental Examination declared on 07.11.2016 wherein 11 numbers of candidates were shown as successful and the applicant could not make to the select list.

3. Aggrieved with this non-selection in the Departmental Examination, the applicant approached the authorities for supply of answer scripts with the key Answers vide his letter dated 07.11.2016. He got reply through RTI reply dated 21.11.2016. On going through the materials supplied through the RTI, the applicant came to know about the erroneous key answers to question No. 4, 7, 22, 68 and 83. Accordingly, he claimed that if these answers were correctly marked, he would have got 81 marks against 76 and he would have been 7th position amongst the candidates for which there are 7 vacancies for open category. Since these 5 marks have not been

awarded to him due to wrong key answers, Sri Pradip Das (SC candidate) who got 78 marks as per the norms, has occupied 7th position amongst the open category candidates. As such, he was denied of being selected to the post/vacancy meant for the open category. He made representation to the concerned authorities on 27.12.2016. The said representation was rejected by the respondent authorities vide letter dated 12.01.2017 on the ground that there is no scope for reevaluation as per Rule 15 of Appendix 37 of Postal Manual Volume IV. The applicant made another representation to the Director of Postal Service (HQ) on 01.02.2017 which was again rejected on the same ground by the respondent authorities vide letter dated 07.03.2017. Thereafter, Smt. Malati Talukdar, mother of the applicant also made representation on behalf of her son (applicant) to the Chief Post Master General, Assam Circle, Guwahati vide letter dated 27.02.2017. The same also has been rejected on the same ground by the competent authority.

4. The respondents in their written statement filed on 27.07.2017 made submission at para 6 that Sri Pradip Das and Arati Das have already obtained 78 and 76 marks excluding the marks for question No. 4, 7, 22, 68 and 83 and they answered as per the answer given by the applicant except question No. 68. As such, if the applicant is illegible for additional 5 marks, both Sri Pradip Das & Arati

Das also get the additional 4 marks as it reveals from the answer sheet of the deponents. So the contention of the paragraph is denied.

5. In para 10 also, the respondents made statement that they are already appointed as postman in Assam Sachivalay and Guwahati G.P.O. vide Memo No. Staff-B/Postman Exam/2016 dated 23.12.2016 and working till now. Hence, the prayer of the applicant is not reasonable and has no merit at all.

6. The issue before this Tribunal is that due to wrong key answers to 5 questions, whether the applicant was particularly at disadvantage position? To this point, the applicant has not been able to demonstrate that when other candidates have benefited due to this wrong key answers, he was particularly at disadvantage position for securing higher marks. In fact if key answers to these 5 questions have been wrong, the same would have applied and have the same negative effect on other candidates as well. Therefore, the contention of the applicant that had these key answers to 5 questions have been correct, he would have secured additional 5 marks is not supported by facts. If he had secured additional 5 marks, other candidates also could have secured additional 5 marks and their relative positions would remain the same then he would not make to the 7th position among the open

category as expected by him. This relative position has been explained by the respondents that if the applicant gets additional 5 marks ($76+5=81$), Shri Pradip Das would have got 82 ($78+4=82$).

7. In addition to the above, the respondent authorities also has valid point that the Postal Manual Volume is existing and applicable across the board not only particularly for this examination but for others as well. If that is so, the applicant cannot claim to be victimized by this general provision of manual of the department. As such, we do not see any justification to unsettle the settled issue.

8. Keeping in view of the above, the prayer of the applicant is found to be devoid of any merit and liable to be dismissed. Accordingly, O.A. stands dismissed.

9. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)