CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
OA/050/00888/2015

Date of CAV - 28th May, 2019

Date of order : 30 .05.2019

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [Judicial]
Hon'ble Shri Dinesh Sharma, Member [Administrative]

Rajeev Ranjan, S/o Sri Thakur Ramashish Prasad, resident of Village – Balmichak, PO – Anishabad, District – Patna.

…….. Applicant.

By advocate : Shri J.K.Karn

Vs.

1. The Union of India through the D.G.-cum-Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Director of Postal Services [HQ], O/o the Chief Postmaster General, Bihar Circle, Patna.
5. The Asstt. Director [Staff & Recruitment], O/o the Chief Postmaster General, Bihar Circle, Patna.
6. The Sr. Superintendent of Post Offices, Purnea Division, Purnea.

…….. Respondents.

By advocate : Mr. H.P.Singh

O R D E R

Per Jayesh V. Bhairavia , Member [J] : The applicant has filed the present, seeking the following reliefs : -

"8[A] The Selection and Appointment of applicant against the post of Postal Assistant may be declared correct, issued in accordance with the Rules of Recruitment & Advertisement.

8[B] The action of the respondents in not permitting the applicant to join his post of Postal Assistant, after his selection and completion of training at PTC Darbhanga as well as at Purnea may be declared invalid and incorrect.

8[C] The respondent authorities may be directed to permit the applicant to join his post of Postal Assistant in Purnea Postal Division, Purnea with all consequential benefits.

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

8[E] Any other relief/reliefs as the applicant is entitled and you Lordships may deem fit and proper in the ends of justice.

8[F] Memo No.BR-32/PA Apptt./2011-12 dated at Purnea the 02.03.2017 issued by Superintendent of Post Offices, Purnea Division as contained in Annexure-A/8 may be quashed and set aside."

2. The case of the applicant in short, is as follows : -

[i] Vide Annexure-A/1, several posts of Postal Assistants/Sorting Assistants were advertised by the Department of Posts in October, 2012. According to the applicant, he applied for the same and his candidature was accepted and shortlisted to participate in the selection. The applicant was selected for the post of Postal Assistant in Purnea Postal Division, vide letter dated 26.12.2013 [Annexure-A/2], and was directed to appear on 15.01.2014 in the office of Supdt. Of Post Offices, Purnea Division, Purnea for verification of documents/certificates.

[ii] Thereafter, the applicant was sent for training and on successful completion of 8 weeks theoretical induction training at PTC Darbhanga, vide letter dated 04.10.2014[Annexure-A/3] issued by the Deputy Director, O/o the Director, Postal Training Centre, Darbhanga, he was

relieved in the afternoon of 08.08.2014 [Annexure-A/3] with direction to report his divisional /unit heads for the further order/direction. The applicant, thereafter, reported to his Divisional Head, the Superintendent of Post Offices, Purnea Division for his joining and was permitted to complete practical/field training of six days w.e.f. 11.08.2014 to 14.08.2014 and 19.08.2014 to 20.08.2014, vide letter dated 01.08.2014 [Annexure-A/4], which he completed successfully, vide letter dated 11.08.2014 [Annexure-A/5]. The applicant submitted that all other candidates have been given their regular posting against the post of Postal Assistant but he is being denied.

[iii] The applicant submitted that when he approached the office of Superintendent of Post Offices, Purnea, he was told that his posting is being delayed on suspicion of impersonation. He further submitted that the action of the respondents is erroneous, as he is the person who appeared in all the stages of examination/aptitude test without any adverse report from the invigilators and other examination conducting officials, and after being found successful, finally he completed training of two months at PTC Darbhanga followed by six days practical training at Purnea.

[iv] The applicant relied upon the decisions rendered by Central Administrative Tribunal, Patna Bench in OA No. 112 of 2001, Vijaya Nand Jha vs. Union of India & Ors., decided on 5th Feb., 2003 and OA No. OA No.51 of 2003, Dilip Kumar vs. Union of India & Ors. decided on 3rd Feb., 2004, wherein this Tribunal has held that the respondents would not have been blindly relied upon simply on the basis of the

opinion of the handwriting expert and, thus, the Tribunal find the OA also a fit case to be remitted back to the concer4ned respondents, the Staff Selection Commission, Central Region, Allahabad as to fresh examine the matter in the light of observations so made in the order.

3. The respondents have filed their written statement and contested the case. According to them, the applicant applied for the post of Postal Assistant and appeared in the examination held in 2013 for the vacancies of the year 2011-12. The result of the aforesaid examination was published vide letter dated 04.12.2013 in which the applicant was selected for appointment to the post of Postal assistant in the Department of Posts, Purnea Postal Division, Purnea. Thereafter, the applicant was deputed for induction training at PTC, Darbhanga and practical training under Purnea Division, Purnea before his appointment.

4. In the meantime, the respondents scrutinized/compared the documents of the applicant, viz OMR application, declaration of OMR application, original typing test result evaluation sheet, data entry sheet and attestation form. On scrutiny, suspicious signatures were detected on the documents which led to an opinion that instead of the applicant, somebody else has impersonated him in the examination and accordingly it was thought appropriate to get an expert's opinion.

5. Accordingly, as per instruction of C.O., Patna letter dated 16.10.2014, the related documents bearing doubtful signatures and specimen of original signatures were sent to the "Director, Central Forensic Science Laboratory, Kolkata-14 under Purnea Divisional Office,

vide letter dated 02.02.2015 for obtaining its verification report. The Director, CFSL, Kolkata reported, vide his letter dated 25.07.2015. The findings of examination report reveals that the signature put on this original OMR application form, PVR attestation form were different from the doubtful signatures put in OMR answer sheet, declaration of OMR application, typing test result evaluation sheet and data entry sheet, vide Annexure-R/1 series.

6. The respondents have further submitted that the findings of the Forensic Laboratory is to the effect that the person who wrote the blue enclosed signatures stamped and marked S/1 to S/20 did not write the red enclosed signatures similarly stamped and marked Q 1 to Q 4 are based on the characteristic differences found among questioned and standard signatures [Annexure-R/2 series]. Under the circumstances, after completion of all pre-appointment formalities other candidates were appointed and allowed to join their duties but the applicant was not appointed and allowed to join in the Department in view of the report received from the Director, CFSK, Kolkata.

7. By way of supplementary affidavit, the respondents have submitted that after receipt of verification report from the Director, CFSL, Kolkata, the applicant was asked to explain the reason mentioned above, and on receipt of non-satisfactory reply from him, as also in the light of report received from the Director, CFSL, Kolkata, the candidature of the applicant has been cancelled vide memo no.BR-32/PA Appt/2011-12 dated 02.03.2017.

8. Heard the learned counsel for the parties and gone through the materials on record.

9. The respondents relied upon the decision rendered by the Hon'ble High Court of Judicature at Patna in the case of Manish Kumar Paswan vs. Union of India & Ors. [CWJC No.7494 of 2017 decided on 18.05.2018] has held as follows : -

> *"6. I have heard the learned counsel for the parties and considered the materials on record. At the outset it is to be noted that the petitioner has not contradicted any of the findings either the one contained in the report of CFSL or that of the respondent authorities much less contradicting the Patna High Court CWJC No.7494 of 2017 dt.18-05-2018 6/8 documents/ mismatch showing that the petitioner had engaged in impersonation and, in fact, somebody else other than the petitioner herein had appeared in the written examination. A bare perusal of the report of the CFSL would show that there was no fundamental similarity in question writing and signature when compared with the standard writing and signature and that of the petitioner herein, thus, it is apparent that actual writing and signature of the petitioner has not matched the writing and signature available on the OMR sheet of written part of the examination as well as with the writing and signature available on admission certificate kept available in the examination hall at the time of examination on 12.5.2013, hence it has been concluded that somebody else had appeared on behalf of the petitioner in the written part of the examination and the present case is a clear case of impersonation. 7. It is a trite law that in cases where impugned order has been passed on the basis of information given by the expert agency, it is not for the court to sit in appeal over the information of the expert agency and controvert the finding recorded by the expert agency. In any view of the matter, the petitioner has also failed to contradict the finding arrived at by the CSFL. It is equally a well settled law that in a case of mal-practice in the examination, no notice or Patna High Court CWJC No.7494 of 2017 dt.18-05-2018 7/8 opportunity is required to be given to a candidate. As far as the contention of the respondents that the principles of natural justice has not been complied with, it has been held times without number by various courts including the Hon'ble Apex Court that fraud vitiates all solemn acts, hence*

the requirement of complying the principles of natural justice/ grant of an opportunity of hearing is obviated in the event of fraud. Reference in this regard be had to a judgment reported in (2009) 13 SCC 600 [State of Chhattisgarh Vs. Dhirjo Kumar Sengar]. 8. For the reasons mentioned herein above, as also the fact that the report of the CFSL has not been controverted by the petitioner herein and the present case is admittedly a case of the petitioner herein trying to secure government job by playing fraud, there is no requirement of complying with the principles of natural justice, hence the principle of audi alteram partem shall stand obviated and excluded in the present case. Another aspect of the matter is that since the evidence in the present case is purportedly plain and transparent, which clearly shows that some other person, other than the petitioner, had appeared in the written examination and further the said evidence has not been controverted by the petitioner herein, there is no need for giving an opportunity of hearing much less giving any show Patna High Court CWJC No.7494 of 2017 dt.18-05-2018 8/8 cause notice to the petitioner herein. In such view of the matter, this Court finds no illegality either in the impugned order dated 4.4.2016 passed by the Deputy Director (nomination) of the Respondent No.3 or in the order dated 11.4.2017 passed by the respondent no.4, hence the present writ petition is dismissed."

10. In the present case also, the Tribunal noticed that the applicant has not contradicted anywhere either before the respondent authorities or in his pleadings that he has not impersonated. The CFSL, Kolkata opined that there was no fundamental similarity in the applicant's signature when it is compared with the signature on OMR sheet. Thus it is apparent that the actual signature of the applicant on OMR Sheet has not matched with the signature of the applicant, which was obtained by the respondents in a plain sheet.

Further, the judgment relied upon by the applicant in the present case is not at all applicable, in view of the facts and circumstances of the case as also in view of the judgment rendered by the Hon'ble Patna High Court in the case of Manish Kumar Paswan [supra].

11. In view of the aforesaid discussions, as also the fact that the report of the CFSL, Kolkata which has not been controverted by the present applicant, it is apparent that admittedly the applicant tried to secure government job by playing fraud, therefore, there is no requirement of complying with the principles of natural justice, hence the principle of audi alteram partem shall stand obviated and excluded in the present case. In view of the foregoing paragraphs, we do not find any infirmity in the actions of the respondents.

12. The OA is, accordingly, dismissed. No costs.

Sd/- Sd/-

[Dinesh Sharma]M[A] **[Jayesh V. Bhairavia]M[J]**

mps.