

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00730/14

Reserved on: 03.01.2019
Pronounced on: 16.01.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Amitesh Singh, S/o Late Satya Narain Singh, resident of Village- Ghorgahiya, PO- Nainpura, PS- Pachrukhi, District- Siwan.

..... Applicant.

- By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the DG 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 Superintendent of Post Offices, Siwan Division, Siwan.
5. The Inspector Post, Siwan West Sub Division, Siwan.
6. Shri Binod Kumar Yadav, S/o Sri Sudama Yadav, At present working as GDSMD/MC at Sohagara Branch Post Office in account with Mairwa Sub Post Office, in Siwan Postal Division.

..... Respondents.

- By Advocate(s): - Mr. A.K. Mantu for official respondents.
Mr. S.K. Bariar for Pvt. Respondent no.6

O R D E R

Per Dinesh Sharma, A.M.:- The case of the applicant is that though he had applied for the post of GDSMD/MC at Sohagara Branch Post Office in account with Mirawa Sub Post Office in Siwan Postal Division and though his name stood higher in the list of applicants on account of his having scored 77% marks he was not given appointment to this post. Instead, Shri Binod Kumar Yadav, respondent no. 6, who had secured much lesser

percentage of marks was appointed to this post by an order dated 08.06.2012 (Annexure A/2). The applicant has requested for quashing this order of appointment and for appointing the applicant in place of respondent no. 6.

2. The official respondents while claiming that the case of the applicant is devoid of merit have more or less accepted the contention of the applicant that he might have secured more marks than the selected candidate. The reason given by the official respondents for selecting respondent no. 6 is that they did not receive verification of marksheets or other documents by the concerned Board/School except for respondent no. 6 and therefore they had no option but to appoint respondent no. 6.

3. Respondent no. 6, in his written statement filed on 11.12.2017, has contested the applicant's case and justified his selection as being most appropriate. He has alleged that the applicant had not challenged his appointment till two and half years and has done so only at the behest of Mr. Indrajit Prasad Singh, Inspector of Post, Siwan. He also alleged that the applicant never appeared for interview/verification of documents and therefore he was not appointed.

4. The applicant, in his rejoinder dated 17.09.2016, has reiterated his claim.

5. The case was earlier heard on 20.02.2018 and reserved for orders. However, on 05.04.2018, while dealing with this case, it was found that there were many discrepancies and contradictions in the submission of the official respondents. Under the circumstances, the case was de-

reserved for fresh hearing and respondents were allowed to file supplementary written statement. A supplementary WS was filed by the official respondents on 17.12.2018 in which the Department have reiterated their earlier pleadings and also included a list of actual comparative merit chart of the applicants for the post in dispute. The official respondents have also raised the issue of limitation since the applicant has challenged the selection of respondent no. 6 after two and half years.

6. The applicant, who had earlier challenged the order by which this Tribunal had de-reserved the case for fresh hearing, filed a reply to the supplementary WS on 31.12.2018. In this reply he has alleged that the Department, if it had any doubt about its educational certificate, it should have put the applicant to notice. He also mentioned that the written statement of official respondents favour the applicant and has again questioned the correctness of allowing the respondents to file a supplementary WS.

7. After going through the pleadings and hearing the learned counsels for the applicant, official respondents and respondent no. 6, it is clear that the issue in the present case is whether the Department has erred in not considering the application of the applicant by not making any efforts to verify the genuineness of his mark sheet. It is evident from the pleadings of the official respondents that they actually did not make any visible efforts to verify the marksheets or even informed the candidates to get this verification done. However, the fact remains that this happened in the year 2012 (08.06.2012) and the applicant did not raise any complaint against it

till the year 2014 (13.10.2014) before the Postal Superintendent. This obvious delay on the part of the applicant which he has not even cared to explain and has not filed any request for condonation, despite this fact having been raised in the written statement by respondent no. 6, amounts to a serious lapse on the part of the applicant which forfeits his claim to seek a relief in this matter. Respondent no. 6 has been working in that position for the last 8 years and it would be a travesty of justice if a relief is granted to the applicant for the matter which he himself had been lax in pursuing at the relevant time. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member