

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00597/14

Reserved on: 07.12.2018
Pronounced on: 12.12.2018

C O R A M

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

Arun Kumar, S/o Sri Asarfi Yadav, resident of Village- Situhaar, PO- Telwa Situhaar, PS- Supaul, District- Supaul.

..... Applicant.

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

-Versus-

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 Post Master General, Northern Region, Muzaffarpur.
4. The Director Postal Services (N), O/o the Post Master General, Northern Region, Muzaffarpur.
5. The Superintendent of Post Offices, Saharsa Division, Saharsa.
6. The Asstt. Superintendent of Post Offices, Supaul Sub Division, Supaul.
7. Sri Abhishek Kumar, S/o Sri Amit Kumar, Village - Bhurahi, PO- Basbitti, Via- Sukhpur, District- Supaul, At present working on the post of GDSBPM at TelwaSituhaar Branch Post Office in account with Sukhpur Sub Post Office, District- Supaul.

..... Respondents.

- By Advocate(s): - Mr. Bindhyachal Rai
Mr. A.N. Jha for Respondent No. 7

O R D E R

Per Dinesh Sharma, A.M.:- The case of the applicant is that the post Of GDSBPM at Telwa Situhaar Branch Post Office in account with Sukhpur Sub Post Office fell vacant and was advertised for appointment

by respondent no. 5. Following this, he applied, and was shortlisted for selection, and was invited to appear on 03.01.2014 for verification of his certificate/documents. However, in spite of his having secured 79% marks in Madhyama examination he was not selected for this job and the appointment was given to Shri Abhishek Kumar, i.e. respondent no. 7. The applicant alleges that the respondent no. 7, who is not a local resident, has got lesser marks than him in the matriculation examination, and he has forged marksheet of Madhyama examination and therefore his selection should be quashed. Instead, the applicant should be appointed to this post.

2. The official respondents (no. 1 to 6, i.e. Postal Department) denied the allegations made by the applicant. They have stated that Shri Abhishek Kumar had passed the Madhyama examination securing 82% marks which is higher than that of the applicant. They have also got verified the certificates of respondent no. 7 and found them correct. They have also found that he has taken up his residence in the village well before joining the said post.

3. The respondent no. 7 has also filed the written statement saying that his records are genuine as he is eminently qualified to be selected for the advertised post having better marks than the applicant and also fulfilling the other necessary conditions.

4. The applicant in his rejoinder has produced what he alleges to be the proforma report/merit chart of the candidates in which names of both the applicant and respondent no. 7 occur with identical marks.

The date of birth of the respondent no. 7 has been shown as 15.02.1991. This, according to him, is wrong since he has found, under RTI, that the date of birth of respondent no. 7 is 15.02.1993. He also alleged miscalculation in the marks shown in this merit chart.

5. The respondents have filed a reply to this rejoinder in which they have admitted that the date of birth has been mistakenly entered as 15.02.1991 instead of 15.02.1993 by a "slip of pen". They have denied the other allegations made in the rejoinder.

6. After going through the pleadings and hearing the learned counsel for both the parties, it is clear that the respondent no. 7 was selected in preference to the applicant because of his having secured higher percentage of marks in Madhyama examination **without** excluding the marks of extra paper. As is clear from the proforma report/merit chart produced by the applicant with his rejoinder (the genuineness of which has not been specifically denied by the Postal authorities) both Shri Abhishek Kumar and the applicant got identical marks (543/700) after excluding the marks in the extra paper. The Postal Department in their written statement have stated that they have given priority to respondent no. 7 since his percentage of marks in Madhyama was higher than the applicants, if these extra paper marks were not excluded. This way of tie-breaking, when more than one person received the same marks in the examination after excluding marks of extra paper, appears to be *prima-facie* reasonable. Thus, there appears to be nothing wrong in the selection and the wrong mentioning

of the date of birth of respondent no. 7 (in the merit chart) does not affect the merit.

7. This OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairaiva]
Judicial Member