

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00185/16

Reserved on: 24.01.2019
Pronounced on: 29.01.2019

C O R A M

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

Kumari Veena, W/o Sri Shankar Kumar, resident of Village- Muradpur Dulhar, PO- Bhikhanpur, PS- Ahiyapur, District- Muzaffarpur.

..... Applicant.

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

-Versus-

1. The Union of India through the Secretary Cum DG, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Director of Postal Services, Northern Region, Muzaffarpur.
4. The Assistant Director, Recruitment, O/o the Chief Postmaster General, Bihar Circle, Patna.
5. The Post Master General, Northern Region, Muzaffarpur.
6. The Asstt. Director-I, O/o The PMG (N), Muzaffarpur.
7. The Superintendent of Post Offices, Darbhanga, Darbhanga.

..... Respondents.

- By Advocate(s): - Mr. Bindhyachal Rai.

O R D E R

Per Dinesh Sharma, A.M.:- Applicant had applied for the post of Postal Assistant in Darbhanga Postal Division. Though she did not succeed in getting an appointment in the results declared in the month of December 2010, later, she came to know through letter dated 06.08.13, in response to her requests under RTI that one of the successful candidates, Akshat Anand, did not join the post. She also came to know, by information supplied to her in letter dated 8.8.13, that she stood at serial number 1 of the waiting list of

OC (other category) candidates. She approached this Tribunal through OA 706 of 2013 for relief. Her case was disposed of on 1.5.2014 directing the respondents to examine her case in the light of this Tribunal's decision in OA No 761 of 2011 (case of Shri Saddam Hussain), and grant relief similar to one granted in that case. The CPMG Bihar Circle has rejected the claim of the applicant by its order dated 30.3.15, which, the applicant alleges, is, besides being in violation the findings of this Tribunal, arbitrary, irregular and an incorrect application of rules/ laws. To further support their claim, the applicants have also raised the issue of likely vacancy of one more person, namely Kaushal Kumar happening due to this Kaushal Kumar not being allowed to join and only being provisionally permitted candidature by order of this Tribunal (in OA No 707 of 2010).

2. The respondents have denied this claim. They cited the Departmental instruction contained in letter no. 51-2/2005-SPB I dated 10.11.1009, according to which a wait listed candidate can be considered only in case selected candidates do not respond or refuse to accept the offer and also this list will be valid for six months from the date of declaration of results. Since in the instant case the candidate Akshat Anand withdrew his candidature more than one year and four months after the declaration of results, the name of any person in the waiting list could not be considered against such later vacancy. The order issued by the CPMG, following the direction of this Tribunal's decision also categorically mentions that this case is not similar to the case of Saddam Hussain (OA. No. 761/2011), and in any case a writ petition is filed in the Hon High Court against the decision

in that case too. Regarding the case of Kaushal Kumar, the respondents have claimed that though he was allowed to appear in the examinations following this Tribunal's orders, and secured better marks, his result was still lying pending due to non-receipt of final decision of this Tribunal.

3. We have gone through the pleadings and heard the parties. The order of the CPMG(impugned order, Refer Annex A/8) issued following our earlier directions in this matter is, prima facie, a well-reasoned and speaking order. It clearly shows why the respondent could not agree with the request of the applicant. Besides quoting the relevant Rule(quoted above) it also gives reasons to distinguish the facts of this case with those in the case of Saddam Hussain(OA 761/2011 decided on 12th September 2013). We have again gone through our decision in that case and we find that the distinction made in the impugned order is correct. In that case the selection of Khushboo Kumari (the originally selected candidate) was cancelled within six months of the publication of result. The decision also states: "Had cancellation of the selected candidate taken place six months after issue of appointment letter, certainly the applicant would have been non-suited". In the instant case, the cancellation has happened much after that period. Though the applicant now claims that it *should have been* cancelled much before it was actually done the fact remains that it did not happen that way. The authorities did give chances to the original selectee to appear for training and there is nothing on record to show that they did so mala fide. The vacancy of Kaushal Kumar also , if and when it arises (or has arisen) would still not give any chance to the applicant since, it would

be much after six months from the date of publication of results. The non-consideration of the wait-listed candidate, under these circumstances is, not wrong.

4. The OA , therefore, lacks merit and is dismissed. No orders as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member