

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00419/15

Date of Order: 21.01.2019

C O R A M

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

Mandip Kumar Shukla, son of Suresh Prasad Shukla, resident of Village- Bhatha, P.O.- Bhatha Sonho, PS- Bheldi, District- Saran (Chapra).

..... Applicant.

- By Advocate: - Mr. S.K. Bariar

-Versus-

1. The Union of India through Secretary cum D.G., Government of India, Ministry of Communication & IT, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Postmaster General, Bihar Circle, GPO Complex, Patna.
3. The Post Master General, Northern Region, Muzaffarpur.
4. The Director of Post Offices, Northern Region, Muzaffarpur.
5. The Assistant Director, Staff and Recruitment, O/o Chief Post Master General, Bihar Circle, GPO Complex, Patna.
6. The Senior Superintendent of Post Offices, Saran Division, Chapra.

..... Respondents.

- By Advocate(s): - Mr. Radhika Raman

O R D E R
[ORAL]

Per Dinesh Sharma, A.M.:- The case of the applicant is that he is a handicapped person belonging to OC (Other Categories). He had applied against the notification for filling up of posts of Postman/Mail Guards of the year 2011-2012. However, though he appeared in the examination held on 27.01.2013 and was declared 4th in the order of merit on the basis of marks obtained by him, only 2 persons were selected in OC category. Out of these 2 persons, one person did not join. On seeking information under RTI the

applicant came to know that there were more vacancies available for filling under this examination. But they were kept unfilled and thus the applicant was denied what was rightfully due to him.

2. The respondents, in the WS, have denied the claim of the applicant. They argued that though there could be more vacancies, 25% of those could be filled from amongst MTS by promotion, 25% by Limited Departmental Competitive Examination (LDCE) amongst the MTS, 25% on the basis of LDCE to GDS and only 25% by direct recruitment from open market. There were unfilled vacancies in earlier years also which were kept in abeyance but were not abolished and “All vacant post due to various reasons were not meant to be filled up through the exam held on 27.01.2013 for the vacancy year 2012” (para 25 of WS).

3. The applicant, in his rejoinder, has reiterated his earlier claim. He has again claimed that there are a lot of unfilled vacancies and the written statement has failed to give any justifiable reason for not filling them. The applicant has also claimed that his case should also have been considered as a handicapped person and some vacancies should have been reserved for persons with disability.

4. The respondents in their reply to this rejoinder have stated that no vacancy for PH quota for the vacancy year 2012 was approved by the competent authority and hence the question of promotion under PH quota does not arise.

5. After going through the pleadings and hearing both the parties, we find that the respondents have, in their own written statement, accepted

that “there were also two (UR-1 & SC-1) unfilled vacancies in 2011, Five (UR-4 & SC-1) in the year 2012 and Seven (UR-5 & SC-2) in the year 2012”. Though they have said the vacancies remain unfilled due to various reasons they have failed to clarify what those reasons were. They have also not denied that one of the successful applicants did not join and have not clarified how that vacancy was filled. Since the applicant was 4th in the merit list his case could have been considered against any vacancy that happened out of those which were notified to be filled by the examination held on 27.01.2013 for the vacancy year 2012. Under these circumstances, the interest of justice will be served if the case is remitted back to the Department to consider appointing the applicant if there is any vacancy (pertaining to the quota applicable to the applicant) is still remaining unfilled, out of those which were intended to be filled by the notification for the vacancy year 2012. Needless to say, since the only person who stood higher than the applicant in the merit (after the alleged failure of one person to join, not denied by the respondents), has not chosen to pursue his case, he cannot do so now. An order following these directions should be issued by the respondents within two months of the receipt of this order. The OA is disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member

