

(Reserved on 19.02.19)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
(Circuit Bench at Nainital)

Original Application No. 331/00845/2018

Dated: This the 21st day of February 2019.

PRESENT:

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)
HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Bipin Chandra Tewari (Aged about 50 years), GDS-BPM, Chaumu (Uchyur), Almora, S/o Late Sh. Jagannath Tiwari, R/o Village – Devali, P.O. Lodhiy, Distt. – Almora, Pin – 263601..

. . . Applicant

By Adv: Shri U.C. Mathpal

V E R S U S

1. Union of India through Secretary, Ministry of Communication and I.T. Deptt. Of Posts, Dak Bhawan, Patel Chowk, New Delhi.
2. Chief Post Master General, Uttarakhand Circle, Dehradun - 248003.
3. Superintendent of Post Offices, Almora Division, Head Post Office, Almora – 263601, Uttarakhand.

. . . Respondents

By Adv: Shri T.C. Agrawal

O R D E R

Delivered by Hon'ble Ms. Ajanta Dayalan, Member(A)

In the present OA, the applicant Bipin Chandra Tewari is seeking directions to the respondents to prepare circle level merit list in respect of examination held on 24.04.2016 for appointment to the post of Postman / Gramin Postman. He has also sought direction to the respondents to keep one post of Postman / Gramin Postman in Nainital or Dehradun division vacant for him.

2. The case of the applicant is that he has been working as Gramin Dak Sewak (GDS) - Branch Post Master since 14.06.2007 and is presently posted at Almora. The respondents department vide advertisement dated

17.02.2016 (Annexure A-3) advertised for holding limited competitive exam for filling up the post of Postman/Gramin Postman. The applicant being eligible applied vide application dated 29.02.2016 (Annexure A-4 colly). This application was filled for Almora division. Against column for 'Other divisions in order of preference', the applicant gave no choice stating 'कहीं भी'. The examination was held on 24.04.2016. As per the result declared (Annexure CR-1), the applicant's position was at Sl. No. 6 and as the candidate at Sl. No. 5 had failed, his effective rank was 5. Further, as per the information received under RTI (Annexure A-1 colly), there are still seven posts in Dehradun division and three posts in Nainital Division which are yet to be filled.

3. Learned counsel for the applicant pleaded that as per the Ministry of Communication and Information Technology (Department of Posts) Notification dated 28.06.2012, 50% of posts of Postman were to be filled 'by direct recruitment on the basis of Competitive Examination Limited to Gramin Dak Sewaks of the recruiting Division who have worked for at least five years in that capacity as on the 1st day of January of the year to which the vacancy(ies) belong, failing which from amongst Gramin Dak Sewaks of the neighbouring Division/Unit on the basis of the said examination, failing which by direct recruitment from open market'. Learned counsel for the applicant therefore, pleaded that the applicant having obtained rank 5 should have been adjusted against the vacancies in neighbouring divisions. As these vacancies existed in Nainital and Dehradun division, the applicant should have been offered appointment. However, the applicant made a representation on 06.06.2017 (Annexure A-7 colly) and again on 31.08.2017 (Annexure A-8) and 18.07.2017 (Annexure A-9). However, there is no progress in the case and hence the OA.

4. The respondents have not contested the facts of the case. They have not disputed holding of examination and rank 6/5 obtained by the applicant in the said examination. The respondents have also not disputed existences of vacancies in Dehradun and Naintal divisions. They have also not disputed the Notification dated 28.06.2012 directing 50% of vacancies to be filled by direct recruitment on the basis of competitive examination limited to Gramin Dak Sewaks of the recruiting Division who have worked for at least five years failing which from amongst Gramin Dak Sewaks of the neighbouring Division/Unit on the basis of the said examination. They have only stated that in this case, circle level list was not prepared and as such offer of appointment was not made to Gramin Dak Sewaks of neighbouring Division/Unit.

5. On our specific query as to why the department's own instructions dated 28.06.2012 were not followed in this case, the learned counsel for the respondents was not able to give any answer. On our query as to whether lists for Dehradun and Nainital vacancies were prepared, the learned counsel for the respondents stated that no such lists have been prepared and as such the applicant has not been offered appointment.

6. Learned counsel for the respondents also stated that the examinations for 2017 and 2018 were also held wherein the applicant appeared but could not succeed and as such he could not be offered appointment. It is observed that the fact that the applicant having failed in 2017 and 2018 examination is not material to this case. The notification of 2012 quoted by the applicant and accepted by the respondents is quite clear and states that 50% of posts are to be filled up by direct recruitment on the basis of limited competitive examination to GDS of recruiting Division failing which from amongst GDS of neighbouring Division/Unit on the basis of the said examination. As such, what was relevant was the result of that particular examination only and on the basis of that alone,

the post was to be filled from neighbouring Division / Unit in case adequate number of candidates were not available for the recruiting division itself. The case of the applicant is also that on the basis of 2016 examination, he should have been adjusted against vacancies available in neighbouring Division/Unit i.e. Dehradun and Nainital as he could not be adjusted in Almora Division.

7. In view of the undisputed facts of the case and clear rule position as brought before us, we find that the OA has merit. Accordingly, the respondents are directed to prepare the list for existing vacancies in the neighbouring divisions keeping in view their own Notification dated 28.06.2012 and the name of the applicant shall be considered on the basis of the result of the examination held on 24.04.2016 , in case he is otherwise found eligible. In case the applicant is not found suitable, a reasoned and speaking order shall be passed by the competent authority amongst the respondents within a period of three months from the date of receipt of certified copy of this order and the order so passed shall be communicated to the applicant.

8. The OA is disposed of in above terms. Vide order dated 28.09.2018 of this Tribunal, one post of Postman/Gamin Postman was kept vacant for which the limited competitive examination was conducted on 24.04.2016, provided that the vacancies for the said period were not filled up. This interim order of the Tribunal shall stand vacated after compliance of this order in above terms by the competent authority amongst the respondents department. No costs.

(Rakesh Sagar Jain)

Member (J)

(Ajanta Dayalan)

Member (A)

Anand...