

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/01118/2015

Bilaspur, this Tuesday, the 02nd day of April, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Aman Kumar Dubey
S/o Shri Bharat Lal Dubey,
Village & Post Kathakoni,
Tahsil-Takhatpur
District Bilaspur (C.G.) 495001

-Applicant

(By **Advocate**-Shri K.R. Nair with Ms. Veena Nair)

V e r s u s

1. Union of India,
Through Director General
Department of Post
New Delhi 110001

2. Chief Post Master General
Chhattisgarh Circle
Raipur (C.G.)

3. Superintendent of Post Office
Bilaspur Division
Bilaspur (C.G.) 495001

4. Sub-Divisional Inspector of Post Office
Bilaspur East Sub-Division
Bilaspur (C.G.) 495001

- Respondents

(By **Advocate**- Shri Vivek Verma)

O R D E R (Oral)**By Navin Tandon, AM:-**

The applicant is aggrieved that by the fact that he has not been issued the appointment letter even though he was selected on the post of Gramin Dak Sevak at Kathakoni.

2. The applicant has made the following submissions:-

2.1 The respondent-department issued notification dated 07.05.2014 (Annexure A/4) wherein they had invited applications for the post of Gramin Dak Sevak in Branch Post Office of Kathakoni. The educational qualifications required were 8th or equivalent examination passed. Those having educational qualification of high school would be given preference. Accordingly, the applicant had applied against the said advertisement and he was notified vide letter dated 18.02.2015 (Annexure A/5) about his selection. He visited the office on the appointed day i.e. 10.03.2015 with all relevant documents and medical certificate.

2.3 When he was not issued the appointment letter for a long time he made a representation on 22.06.2015 (Annexure A/7).

2.4 The respondents vide their letter dated 18.08.2015 (Annexure A/1) have stated that on the basis of the marks obtained in class 10th, two candidates have the same marks. As per rule the

candidate of higher age should have been selected whereas by mistake the applicant was selected. Therefore, the respondents have cancelled whole selection process.

3. The applicant has prayed for the following reliefs:-

“8.1 This Hon’ble Tribunal may kindly be pleased to call for the entire records of selection/appointment in reference to vacancy notified by notification dated 07.05.2014 along with the service record of applicant maintained by the respondent No.3 after his joining on 10/03/2015.

8.2 This Hon’ble Tribunal may kindly be pleased to quash and set aside the letter dated 18.08.2015 of the respondent No.3 (Annexure A-1).

8.3 This Hon’ble Tribunal may kindly be pleased to issue an appropriate direction directing the respondent authorities to consider the posting of the applicant at branch post office kathakoni within account office Sakari for which the recruitment has been made. Also pleased to direct the respondents to hand over the charge of appointed post of Gramin Dak Vahak/Dak Sevak/Vitarak to the applicant so that the applicant may able to perform his duty lawfully.

8.4 This Hon’ble Tribunal may kindly be pleased to direct the respondents to make payment of his remuneration withheld by them, in wrong notion and hypothetical proposition of facts and law, from the date of his joining the job.

8.5 Any other relief (including the cost of the present proceedings) which this Hon’ble Tribunal deem just, fair and equitable in the circumstances of the case may be granted.”

4. The respondents have filed their response in which the following submissions have been made:-

4.1 In response to the notification, 31 applications were received from the candidates. The applications received were checked and tabulation sheet was prepared by the Selection Committee on 30.07.2014.

4.2 On the basis of marks obtained in 10th standard examination, the following candidates were positioned in the tabulation sheet by the Selection Committee:-

S. No.	Name	DOB	Marks obtained	
			8 th	10 th
1	Prince Kumar Sahu	12.12.88	-	66.50
2.	Aman Kumar Dubey	08.04.96	85.60	65.33
3.	Shatrughan Singh Kaiwart	14.10.93	74.8	65.33

4.3 Shri Prince Kumar Sahu (serial No.1 of the tabulated statement) was selected on the merit basis but he did not attend the office on duty. Then the candidate at Serial No.2 Shri Aman Kumar Dubey (Applicant) was selected.

4.4 As per DOPT circular dated 08.01.2014, in case of equal merit, the older candidate should be considered and, therefore, the selection of the applicant was wrong.

4.5 The applicant was informed by SPO Bilaspur vide letter dated 18.08.2015 (Annexure A/1) that selection process for the said post was cancelled.

5. Heard the arguments of learned counsel for both the parties and perused the pleadings available with the file.

6. Learned counsel for the applicant submitted that the basic educational qualification required for the post of Gramin Dak Sevak is class 8th pass. Selection should be on the basis of merit in class 8th, even though it was not mentioned in the notification. The preference to class 10th qualification can be considered only if the merit in class 8th pass is same.

7. Learned counsel for the applicant places reliance on the judgment passed by the Hon'ble Supreme Court in the matters of *the Secretary, Andhra Pradesh Public Service Commission vs. Y.V.V.R. Srinivasulu and others*, to further strengthen his argument.

8. Learned counsel for the respondents submits that since class 10th was to be given preference therefore merit has been prepared on the basis of 10th class marks and accordingly the tabulated statement has been prepared.

9. We have considered the case. We find that the education qualification sought in the notification dated 07.05.2014 (Annexure A/4) for the post of Gramin Dak Sevak states as under:-

“ks{kf.kd ;ksX;rk & xzkeh.k Mkd lsod
okgd@forjd ds fy,

vkBoh ;k led{k ijh{kk mRrh.kZ A
 gkbZ Ldwy `kS{kf.kd ;ksX;rk okys
 vH;kFkhZ dk izkFkfedrk nh tk;sxh
 A gkbZ Ldwy ls mPp `kS{kf.kd
 ;ksX;rk dks dksbZ ojh;rk ugh nh
 tk;sxh l”

10. Hon’ble Supreme Court in the matter of Y.V.V.R.

Srinivasulu (supra) have held as under :-

“10. Both on account of the scheme of selection and the various stages disclosed as necessary to be undergone by every candidate and the manner of actual selection for the appointment in question, the candidates were required to be selected finally for appointment on the basis of the ranks obtained by them in terms of the inter se ranking based on the merit of their respective performance. There is no escape for anyone from this ordeal and claim for any en bloc favoured treatment merely because, anyone of them happened to possess an additional qualification than the relevant basic/general qualification essential for even applying to the post. The word 'preference' in our view is capable of different shades of meaning taking colour from the context, purpose and object of its use under the scheme of things envisaged. Hence, it is to be construed not in an isolated or detached manner, ascribing a meaning of universal import, for all contingencies capable of an invariable application. The procedure for selection in the case involve, a qualifying test, a written examination and oral test or interview and the final list of selection has to be on the basis of the marks obtained in them. The suitability and all round merit, if had to be adjudged in that manner only what justification could there be for overriding all these merely because, a particular candidate is in possession of an additional qualification on the basis of which, a preference has also been envisaged. The rules do not provide for separate classification of those candidates or apply different

*norms of selection for them. The 'preference' envisaged in the rules, in our view, under the scheme of things and contextually also cannot mean, an absolute en bloc preference akin to reservation or separate and distinct method of selection for them alone. A mere rule of preference meant to give weightage to the additional qualification cannot be enforced as a rule of reservation or rule of complete precedence. Such a construction would not only undermine the scheme of selection envisaged through Public Service Commission, on the basis of merit performance but also would work great hardship and injustice to those who possess the required minimum educational qualification with which they are entitled to compete with those possessing additional qualification too, and demonstrate their superiority, merit wise and their suitability for the post. It is not to be viewed as a preferential right conferred even for taking up their claims for consideration. **On the other hand, the preference envisaged has to be given only when he claims of all candidates who are eligible are taken for consideration and when anyone or more of them are found equally positioned by using the additional qualification as a tilting factor, in their favour vis-a-vis others in the matter of actual selection.***

(emphasis supplied by us)

10.1 From the above, Hon'ble Supreme Court has very clearly specified the meaning of the word 'preference' and it has been clearly brought out that the preference can be envisaged only when the claim of all the candidates who are eligible for taken in consideration are found equally positioned.

11. In the instant case, the respondents have not considered the marks obtained in class 8th which is the essential qualifications required for the said selection. Instead they have considered the marks of class 10th which was only a preferential qualification.

12. In view of the above, it is clear that the respondents have not correctly interpreted the educational qualifications stated by them in the notification dated 17.05.2014.

13. Accordingly, the letter dated 18.08.2015 (Annexure A/1) is quashed and set aside. The respondents are directed to consider the case of the applicant along with all other applications received by the respondents for the selection of the said posts, according to the provision as explained in the notification/advertisement.

14. Resultantly, this Original Application is disposed of in above terms. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

kc