

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/0008/2015

Date of Reserve:09.07.2019

Date of Order:30.08.2019

CORAM:

HON'BLR MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Hara Prasad Mishra, aged about 39 years, W/o. Krushna Chandra Mishra, at present working as MTS (Trainee), O/o. Deputy Accountant General (E&SA), (ES-II), Odisha, Puri, At/PO-Puri, Dist-Puri.

...Applicant

By the Advocate(s)-M/s.D.Pattnaik

N.Biswal

N.S.Panda

-VERSUS-

Union of India represented through:

1. The Comptroller & Auditor General of India, 9-Deen Dayal Upadhyaya Marg, New Delhi-110 124.
2. Principal Accountant General (G&SSA), Odisha, At/PO-Bhubaneswar, Dist-Khurda.
3. Accountant General (Civil Audit), Odisha, At/PO-Bhubaneswar, Dist-Khurda.
4. Deputy Accountant General (Admn.), Odisha, At/PO-Bhubaneswar, Dist-Khurda.
5. Deputy Accountant General (ES-II), Puri, At/PO/Dist-Puri.
6. Council of Boards of School Education India represented by its General Secretary, 6H BigJo's Tower, A-8, Netaji Subhash Palace, Ring Road, Delhi-110 034.
7. Secretary, Chhattishgarh State Open School, Haribhomi Complex, Dhamtari Road, Tikarapara, Raipur-492 001.

...Respondents

By the Advocate(s)-Mr.S.K.Patra

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act,

1985, the applicant has sought for the following reliefs.

- i) To quash the impugned order No.1818 dated 07.10.2014 passed by the Respondent No.4 under Annexure-A/7.

- ii) To quash the impugned order No.2418 dated 15.12.2014 passed by the Respondent No.4 under Annexure-A/10.
- iii) To quash the impugned order No.54 dated 29.12.2014 passed by the Respondent No.5 under Annexure-A/11.
- iv) To direct the Respondents to allow the applicant to continue as MTS (Trainee) Respondent No.5 and regularize the services of the applicant against the said post.
- v) To direct the Respondents to grant all service as well as consequential benefits, within a time frame by the Hon'ble Tribunal.
- vi) To pass such order/directions as deemed fit and proper.
- vii) To allow the Original Application.

2. Facts as revealed from the O.A. are that the applicant having been duly selected was appointed to the post of MTS (Trainee) vide order dated 03.05.2012. As per the terms and conditions of the order of appointment dated 03.05.2012, he was required to pass Matriculation or equivalent examination from a recognized Board within a period of two years from the date of his joining. On the request made by the applicant, he was permitted for appearing the Secondary Education, 2013 through distance mode under National Institute of Open Schooling, New Delhi. Thereafter, on passing the High School Certificate Examination, 2013, the applicant submitted a certificate-cum-mark sheet dated 02.04.2014 (R/5) issued in his favour by the Rural Institute of Open Schooling (RIOS), Raipur. The genuineness of this certificate having been verified, the Counsel of Boards of School Education India vide letter dated 01.09.2016 (A/6) stated as follows:

"On verification of the records maintained in COBSE office we find that the name of the Rural Institute of Open Schooling, Delhi does not appear in the list of member-Boards of COBSE. In so far as affiliation of RIOS with CGSOS is concerned, the status may be verified from the Secretary, Chhattishgarh State Open School, Haribhoomi Complex, Dhamtari Road, Tikrapara, Raipur-492001 directly".

3. In the above backdrop, a communication dated 07.20.2014 (A/7) was made to the applicant by the Respondents, the relevant part of which reads as follows:

"The COBSE, Delhi has now clarified that the name of the Rural Institute of Open Schooling, Delhi does not appear in the list of Member Boards of COBSE. Therefore, the "High School Certificate Examination, 2013" pass certificate submitted by Shri Hara Prasad Mishra, MTS(Trainee) for consideration as qualification as passing of Matriculation or equivalent examination from a recognized Board within two years from his date of joining as MTS (Trainee) cannot be accepted as passing of Matriculation from a recognized Board and therefore, Shri Mishra's case cannot be considered for retention in Govt. Service and placement in Pay Band-1 (Rs.5200-20200) with Grade Pay Rs.1800/-. As per terms and conditions of his appointment order issued vide letter No. Admn.(G&SSA)-Gen-Rectt/MTS(PB-1)/457 dt. 03.05.2012, his conditional appointment as MTS (Trainee) entails termination of service without assigning any reason.

This is for information of Shri Hara Prasad Mishra, MTS(Trainee) with reference to his application dated 27.03.2012 which was forwarded by Sr.AO/OE of O/o. The DAG/ES-II, Puri and dt. 25.04.2014 which was forwarded by the Sr.AO/Admn. O/o. The Pr.AO(E&RSA), Odisha, Bhubaneswar along with photocopy of High School Examination, 2013 Pass Certificate issued by the above Institute".

4. On receipt of the above communication, the applicant submitted a representation dated 14.10.2014 to the Deputy Accountant General(Admn.), O/o. The A.G.(G&SSA), Odisha, Bhubaneswar, the relevant part of which reads as under:

“...Accordingly, I appeared for 10th exam. Under Rural Institute of Open Schooling (RIOS). As per Chhattisgarh State Open School (CGSOS), Govt. Of Chhattisgarh Notification No.1543/vidhyochit/2013 dated 20.03.2013 and restoration letter dated 11th September, 2013 and order No.733/samanvaya/2013 dated 24th September, 2013, RIOS is affiliated/associated with the Chhattisgarh State Open School, Raipur for conducting and certify students secondary and senior secondary/intermediate level examination throughout the country. Accordingly, the validity and equivalence of the certificates issued by Rural institute of Open Schooling (RIOS) is equal to secondary/senior secondary/intermediate certificates of other members boards of the Council of boards of School Education in India (CGBSE) across the country for Government employee and/or for pursuing higher studies.

Letter issued by General Secretary, COBSE regarding verification of Board has not rejected the affiliation of RIOS from Chhattisgarh board. Therefore, I request you to kind accept the genuineness of my certificate, copy of letter COBSE accepting the RIOS as affiliated institute of Chhattisgarh State Open School is attached for your kind information. Further, in case of rejection of my certificate that I have already submitted, I request you to kindly allow me two more years for passing the matriculation or equivalent examination”.

5. While the matter stood thus, the Deputy Accountant General(Admn.) office of the A.G.(G&SSA), Odisha, Bhubaneswar issued notice of termination of service of the applicant under Rule5(1) of CCS(TS) Rules, 1965 vide A/10 dated 15.12.2014, the relevant portion of which reads as under:

“...Further, his representation dated 14.10.2014 to allow extension of time of two more years for passing the matriculation or equivalent examination is not acceded to by the Competent Authority.

As Shri Mishra, MTS(Trainee) could not pass the Matriculation or equivalent examination from a recognised board within two years from the date of appointment as MTS (Trainee), thus violating the terms and conditions of his letter of offer of appointment order.

Therefore, in pursuance of sub-rule(1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I, Shri S.Lakshminarasimhan, Deputy Accountant General (Admn.) hereby give notice to Shri Hara Prasad Mishra, MTS(Trainee) that his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on, or, as the case may be, tendered to him".

6. It reveals from the record that vide communication dated 29.12.2014, representations of the applicant addressed to the Comptroller & Auditor General of India, Principal Accountant General(E&RSA) and Accountant General(G&SSA) had been forwarded for consideration with an indication that the notice having been served on 19.12.2014, the service of the applicant is due for termination on 18.01.2015 (AN).

7. In the above background, the applicant has approached this Tribunal praying for the reliefs as already mentioned above.

8. We have heard the learned counsels for the parties and perused the records. In the fitness of things, it is profitable to quote hereunder the averments made by the applicant at Paragraph-4.8 of the O.A. vis-a-vis the reply thereof made by the respondents in their counter.

"4.8. That it is respectfully submitted that finding no ways out the applicant again filed another detailed representation before the Deputy Accountant General (Admn.), Odisha on 14.10.2014 annexing the letter dated 19.09.2013 issued by the Respondent No.6 with a prayer that since the RIOS is an affiliated institution of CGSOS who is a member of (COBSE), the certificate issued by the above institution may be accepted. But no action was taken by the said Respondent No.4. Copies of the representation dated 14.10.2014 as well as letter dated 19.09.2013 are marked to the O.A. as Annexure-A/8 & A/9 respectively".

9. The respondents have replied in their counter as follows:

(d) That in reply to Para-4.5 to Para-4.8, it is humbly submitted that the Applicant actually passed High School Certificate Exam-2013 held in Oct/Nov, 2013 by Rural Institute of Open Schooling, Delhi (RIOS) instead of National Institute of Open Schooling, New Delhi for which permission was granted earlier. Further, as per the website of RIOS, it got affiliation from Council's Member Board named "Chhattisgarh State Open School" on 11 September, 2013, i.e., only a month before it conducted the H.S.C. Exam-2013. It is pertinent to mention here that the Applicant despite knowing fully well that RIOS is neither a Member-Board of the Council of Boards of School Education in India nor is even a member of any Member-Board thus far, preferred RIOS than any other recognized board like the one "Board of Secondary Education, Odisha" to register his name in 10th class. It may not be a mere coincidence that RIOS, Delhi somehow managed to obtain membership from a Council's Member-Board named "Chhattisgarh State Open School" in the just preceding month of Applicant's appearance in the H.S.C.Exam. Be as it may, the RIOS, Delhi being not set up under the statute, cannot claim the status of a recognised Board of School Education. In such circumstances, it is believed that the RIOS in its status as affiliated member of a recognized Member-Board can only admit students for HSC Exam in distance education mode but can neither grant students' registration nor can issue Certificate-Cum-Mark sheet in its own letter held in lieu of the letter head of a recognized Member-Board, more pertinently the "Chhattisgarh State Open School". However, during verification by these Respondents' department regarding bona fide use, strength, force and validity of the Certificate-cum-Mark Sheet issued by RIOS, Delhi for pursuing government service and higher studies in Universities set up under statute was not confirmed by COBSE and CGSOS in their reply dated 01.09.2014 and 28.10.2014 respectively annexed here as Annexure-R/5 and Annexure-R/7. Hence, the Certificate – cum – Mark Sheet issued by Rural Institute of Open Schooling, Delhi was not considered proper for the purpose of government service".

10. It appears from the record that in pursuance of communication dated 10.9.2014 (R/5) of the General Secretary,

Council of Boards of School Education in India, the respondent-authorities had addressed a letter dated 07.10.2014 to the Secretary, Chhattisgarh State Open School (CGSOS), Haribhoomi Complex, Dhamtari Road, Tikarapara, Raipur-492 001 on the subject of verification of Recognised Boards under Council of Boards of School Education in India (COBSE), Delhi for conducting Matriculation or equivalent examinations and certificates issued by them for employment in Central Govt. Office and for further studies, the contents of which are as follows:

"I am to invite a reference to the subject mentioned above and to state that one Shri Hara Prasad Mishra having educational qualification "below matriculation" was appointed as Multi Tasking Staff (Trainee) with condition that he shall have to pass the Matriculation or equivalent examination from a recognised board within two years of his joining as such or otherwise his services would be terminated because as per recruitment rules of MTS in Central Govt. Offices, the minimum educational qualification is Matriculation or equivalent from a recognized board for the post of MTS. Now, he has submitted High School Certificate Examination - 2013 Pass Certificate issued by the Rural Institute of Open Schooling, Delhi stated to be registered under Act of 1860, Govt. Of NCT of Delhi and affiliated with CGSOS, Raipur, Chhattisgarh (copy enclosed).

In this connection, it may please be confirmed whether the 'Rural Institute of Open Schooling, Delhi' is affiliated with your Institute and the examinations conducted and certificates issued by that Institute are equivalent to that of the Member-Boards of CGBSE and valid for Central Govt. Office jobs and further studies. In this connection, the copy of any DoPT/Govt. Of India, Deptt. Of School Education and Literary, Ministry of HRD's letter authorising such act, if any, may please be provided to the undersigned at an early date".

11. In response to this, the Deputy Secretary, Chhattisgarh State Open School, Raipur vide letter No.S60/Open School/2014 dated 28.01.2014 sent a communication which reads as under:

"With reference to the subject it is to inform you that in the sent letter the mark list of the High School passed student from R.I.O.S. has been sent to this office for attestation. Though, the attached marks list has no relation with this office. Hence, the above attached marks list by the Chhattisgarh State Open School cannot be attested".

12. From the above, it is quite clear that the genuineness of certificate as produced by the applicant in support of his having passed Matriculation is not free from doubt. At this stage, we would like to note that as per Clause No.4 of the Advertisement (R/2) prescribing Educational Qualification, it has been indicated that the candidate/applicant will have to pass 10th from any recognized Board of Education/National Open School. The applicant has not been able to establish that the Certificate-cum-Mark Sheet produced by him in support of his educational qualification is from the recognized Board of Education/National Open School, as per the requirement of the statute. In view of this, we are of the considered view that the applicant is not entitled to any relief sought for and accordingly, the O.A. being devoid of merit is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

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