

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00390/2013

Reserved on : 09.07.2019

Jodhpur, this the 31st July, 2019

CORAM

**Hon'ble Smt Hina P. Shah, Judicial Member
Hon'ble Ms Archana Nigam, Administrative Member**

Smt. Pooree Devi W/o Shri Prahlad Ram Saran, R/o Village Sareli Ki Dhani, Post Office Dandali via Sindhary, District Barmer, Rajasthan.

.....Applicant

By Advocate : Ms Nupur Bhati.

Versus

1. Union of India through the Secretary, Ministry of Communications and Information Technology, Government of India, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur, Rajasthan.
3. Superintendent of the Post Office, Barmer Division, Barmer, Rajasthan.

.....Respondent

By Advocate : Mr K.S. Yadav.

ORDER

Per Smt. Hina P. Shah

The present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

- (a) By an appropriate order or direction, the order dated 29.05.2013 (Annex. A/1) and the advertisement dated 14.08.2013 (Annex. A/2) may kindly be quashed and set aside.
- (b) By an appropriate order or direction, the respondents may kindly be directed to give appointment to the applicant on the

post of Gramin Dak Sevak Branch Post Master Dandali, Sindhari Barmer with all consequential benefits.

- (c) By an appropriate order or direction, the respondents may kindly be directed to not to deny the appointment/selection of the applicant on the ground of secondary not been passed from a recognized institution and verification of marksheet.
- (d) By an appropriate order or direction, if any selection/appointment of any other candidate is made on the post of Gramin Dak Sevak Branch Post Master Dandali, Sindhari, Barmer then the same may kindly be quashed and set aside.
- (e) Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- (f) Application of the applicant may kindly be allowed with costs.

2. It is the case of the applicant that as per advertisement dated 25.02.2011 (Annex. A/3) for the post of Gramin Dak Sevak Branch Post Master (GDS BPM), Dandali, Sindhari, Barmer, she applied for the post being eligible as per required minimum qualification of 10th standard pass and age limit of minimum 18 years to maximum 65 years. The applicant states that she had equivalent qualification of 10th standard/secondary pass as she has passed the examination of 'Adeeb' in the year 2010 from Jamia Urdu, Aligarh (Annex. A/4). It is submitted that Jamia Urdu, Aligarh is a recognized institution which falls under the list of recognized institution by the Central Government as per OM dated 28.06.1978 (Annex. A/6) issued by Ministry of Home Affairs, Govt. of India. From the office order dated 27.09.2010 (Annex. A/7), it is clear that Jamia Urdu, Aligarh Sansthan falls at serial No. 14 of the list of Government orders/recognition of Jamia Urdu, Aligarh. As

per Board of Secondary Education Rajasthan, Ajmer issued Anudeshika, it is clear that person who passed the 'Adeeb' examination with the subject of Maths and English from the Jamia Urdu, Aligarh is equivalent to the Secondary Examination of the said Board (Annex. A/8). However, Board of Secondary Education, Rajasthan cancelled such recognition/equivalence of the Jamia Urdu, Aligarh Sansthan w.e.f. 22.06.2011 by publishing the same in the local newspaper (Annex. A/9). Applicant further submitted that she was selected but not appointed to the post of GDS BPM and after lapse of long time, her husband filed an application under RTI dated 25.05.2013. In reply dated 24.06.2013 (Annex. A/11), respondents informed that one person has already been appointed in the department. The applicant was shocked to receive the order dated 29.05.2013 (Annex. A/1), which is the impugned order, whereby the selection of the applicant was cancelled for the reason that from verification of the 10th marksheets, it is clear that your certificate is not from a recognized Institute/Board and therefore, your selection to the said post is cancelled and your name is removed from the panel. Applicant also impugned the advertisement dated 14.08.2013 (Annex. A/2) whereby the post of GDS BPM , Dandali, Sindhari has been advertised for SC category instead of General category. Hence, the applicant has filed the present Original Application against the illegal and arbitrary action of the respondents not appointing

her on the post of GDS BPM Dandali, Sindhari and instead advertising the said post afresh for SC Category candidate.

3. Respondents in their reply stated that the applicant was selected on the post of GDS BPM Dandali which was fallen vacant on account of retirement of regular incumbent on 31.12.2009 after following due process as per law. On verification of documents, it was found that the marksheets of the applicant pertaining to 10th standard, i.e. 'Adeep' from Jamia Urdu, Aligarh was not from a recognized institute. The said 'Adeep' certificate is recognized only for the purpose of employment to the posts which require knowledge of Urdu for High School but the post of GDS BPM Dandali (Sindhari) is not for Urdu language. Therefore, considering all the facts, vide letter dated 29.05.2013, applicant was informed that her mark sheet of 10th standard issued by the Jamia Urdu, Aligarh was not from recognized Board/Institute. Hence, the selection of the applicant made on temporary basis was cancelled and applicant's name was removed from selection panel. The validity of selection panel had expired on 28.03.2012 and thereafter a fresh notification was issued to fill the post of GDS BPM Dandali (Sindhari) vide memo dated 14.08.2013. After following due selection process, one Shri Dungar Mal Meghwal having highest percentage in 10th class, i.e. 72.55% has been issued selection order. Thereafter, the applicant filed the present OA challenging the said selection and this Hon'ble Tribunal

stayed the effect and operation of the orders dated 29.05.2013 (Annex. A/1) and 14.08.2013 (Annex. A/2) vide order dated 19.09.2013. In view of the reply, respondents prayed that interim order dated 29.05.2013 may be vacated and OA may be dismissed with costs.

4. Heard Ms Nupur Bhati, learned counsel for the applicant and Mr K.S. Yadav, learned counsel for the respondents.

5. Ms Nupur Bhati, learned counsel for the applicant while reiterating the averments made in the OA, submitted that facts and issue involved in the present OA is fully covered by judgments of this Tribunal passed on the basis of orders of Hon'ble respective High Courts. She referred to the following judgments :

- (1) CAT Jodhpur Bench order dated 18.07.2012 in OA No. 553/2011 (Sheru Khan vs UOI & Ors).
- (2) CAT Jodhpur Bench order dated 27.10.2014 in OA No. 560/2013 (Bheru Lal Meghwal vs UOI & Ors).
- (3) CAT Principal Bench order dated 25.07.2018 in OA No. 2871/2015 (Ravi Kumar & Ors vs UOI & Ors)

Referring to above judgments, she contended that Jamia Urdu, Aligarh is a recognized institute which falls in the list of recognized institutions as per office memorandum dated 28.06.1978 (Annex. A/5). 'Adeeb' examination conducted by the Jamia Urdu Sansthan, Aligarh is equivalent to 10th Standard. She, therefore contended that since, equivalence/recognition of Jamia Urdu, Aligarh was cancelled by the Board of Secondary

Education, Rajasthan w.e.f. 22.06.2011 and applicant had passed 'Adeeb' examination in the year 2010, therefore, she is entitled for appointment on the post of GDS BPM Dandali (Sindhari) in pursuance of selection letter dated 29.03.2011 (Annex. A/5) having been issued by the respondents and orders dated 29.05.2013 (Annex. A/1) and 14.08.2013 (Annex. A/2) deserves to be quashed and set aside.

6. On the other hand, Mr K.S. Yadav, learned counsel for the respondents submitted that in pursuance of order dated 18.07.2012 passed in OA No. 553/2011 (Sheru Khan Vs UoI & Ors), the matter was referred to the Postal Board for consideration and to arrive at a judicious decision. The Postal Board vide letter No. 19-25/2012-GDS dated 27.12.2013 reached to the conclusion that Adeeb Examination of Jamia Urdu, Aligarh cannot be considered as valid qualification for the post of GDS BPM as the 'Adeeb' examination of Jamia Urdu, Aligarh was recognized equivalent to matriculation for the purposes of employment under Central Government to posts which required knowledge of Urdu of High School/Matriculation and for the present post, knowledge of Urdu is neither an essential nor desirable qualification for selection to the post of GDS BPM under the existing provisions. Relying upon judgment of CAT Jaipur Bench dated 25.07.2012 in OA No. 77/2011 (Kalu Ram Meena Vs UOI & Ors), he contended that the post of GDS BPM Dandali (Sindhari) neither requires knowledge

of Urdu as essential or desirable qualification nor Jamia Urdu, Aligarh is an institution established either under the orders of the Central Government or State Government or UGC. He thus prayed that Original Application filed by the applicant may be dismissed.

7. We have considered the arguments advanced by counsels for the parties and perused the record.

8. It is an admitted position that selection of the applicant for the post of GDS BPM Dandali (Sindhari) was cancelled by the respondents on the decision of Postal Board issued vide letter No. 19-25/2012-GDS dated 27.12.2013 in pursuance of order dated 18.07.2013 passed by this Tribunal in OA No. 553/2011 (Sheru Khan Vs UOI & Ors). (It is pertinent to note that the said letter dated 27.12.2013 has not been placed on record by the respondents. However, during course of arguments, it was referred as the same has been challenged in a similar matter heard together at the request of counsels for the parties, i.e. OA No. 290/00058/2014). Earlier in Sheru Khan's case, this Tribunal had made some observation and directed the Postal Board to consider the matter and arrive at a judicious decision, relevant portion of the order of this Tribunal reads as under :

9. Arguments were heard and documents considered. It is not exactly known at what level the decision was taken by the respondents to cancel the selection of the applicant on the ground that the institution from which the applicant had acquired the qualification is unrecognized. As a matter of fact, the said list vide Annexure R-1 does not exactly indicate as to which authority has

issued the same. The said institution has a recognition of Ministry of Home Affairs as per order dated 28.06.1978. State Government has also afforded recognition till recently. The Tribunal considers it quite appropriate that it is for the Postal Board at Delhi which has to consider the issue and arrive at a conclusion whether the institution from where the applicant had secured his qualifications equivalent to Matriculation has been recognized for the purpose of appointment to the post of GDS BPM for which matriculation is the minimum qualification.

In pursuance of order passed by this Tribunal in Sheru Khan's case, the Postal Services Board decided the matter in following terms vide letter dated 27.12.2013 brought on record by the applicant in OA No. 290/00058/2014.

3. It has been decided by the Postal Services Board that the qualification of Shri Sheru Khan, i.e. Adeeb Examination of Jamia Urdu, Aligarh cannot be considered as a valid qualification for the post of GDS Branch Postmaster especially in view of the following :-

- (a) Adeeb Examination of Jamia Urdu, Aligarh was recognized equivalent to Matriculation for the purposes of employment under Central Government to posts which required knowledge of Urdu of High School/Matriculation under MHA Notification No. 14021/2/78-Estt (D) dated 28.06.1978; and
- (b) Knowledge of Urdu is neither an essential nor desirable qualification for selection to the post of GDS Branch Postmaster under the existing provisions on the subject. The selection criterion to the post of GDS Branch Postmaster is based on marks secured in the Matriculation of equivalent examination with no weightage for any qualification(s) higher than matriculation.

9. Thereafter, again a similar matter came up before this Tribunal in OA No. 560/2013 (Bheru Lal Meghwal vs Union of India) wherein the main prayer of the applicant was seeking

direction on the respondents to treat the qualification of Adeeb Examination equivalent to Secondary examination and consider the candidature of the applicant for appointment on the post of GDS. The relevant part of the said judgment reads as under :

4. Heard both the parties. Counsel for the applicant submits that the applicant has passed 'Adeeb' course from Jamia Urdu, Aligarh in February, 2010 with English & Mathematics and therefore, he is eligible for consideration to the post of GDS BPM as per Annex. A/7. He submits that as per Annex. A/7 he is eligible for consideration for the post of GDS BPM at Samicha because 'Adeeb' Examination from Jamia Urdu, Aligarh has been considered as equivalent to the Board of Secondary School Examination but candidature of the applicant has been rejected by the respondent-department without considering Annex. A/7. He further contended that the Hon'ble Rajasthan High Court in Dhan Singh Chundawat & Ors vs The State of Rajasthan & Ors in S.B. Civil Writ Petition No. 7014/2013 vide its order dated 25.10.2013, taking into account other judgment passed in S.B.C.W.P. No. 13585/2011 decided on 26.09.2011 in similar circumstances, directed the Board of Secondary Education to consider and decide the cases with regard to issue of eligibility certificate to the candidates on the basis of 'Adeeb' examination conducted by Jamia Urdu, Aligarh to the candidates who have passed prior to 22.06.2011 (i.e. the date of derecognition).

5. Counsel for the applicant contended that in view of the judgments and Annex. A/7 & A/8, the applicant is entitled for consideration to the post of GDS BPM at Samicha and this Tribunal vide its order dated 19.12.2013 ordered that respondents shall not finalize any appointment on the post of GDS BPM, Post Office Samicha, therefore, now respondents may be directed to consider the candidature of the applicant taking into account his qualification as equivalent to the Secondary Examination pass by the Board of Secondary Education, Rajasthan. Per contra, counsel for the respondents contended that the educational qualification acquired by the applicant is not equivalent to the Secondary pass from Board of Secondary Education , Rajasthan.

6. We have considered the rival contentions of both the parties and also perused the averments made in the OA as well as in the reply. The application of the applicant has been rejected by the order

Annex. A/6 dated 11.12.2013 and as per information provided under RTI Act only on the ground that the applicant has passed 'Adeeb' Examination from Jamia Urdu, Aligarh which is not recognized by Council of Board School Education in India. In our considered view, the rejection order cannot be sustained in the eye of law considering the judgments of Hon'ble Rajasthan High Court referred above and also in view of Annex. A/7 produced by the applicant.

7. In view of discussions hereinabove made, Annex. A/6 dated 11/12/2013 is set aside and respondents are directed to consider the candidature of the applicant in light of discussions made by us as well as document Annex. A/7 submitted by the applicant and judgments of Hon'ble Rajasthan High Court passed in above referred writ petitions. Further, respondents are directed to consider the candidature of the applicant within 3 months from the date of receipt of this order and the applicant is entitled to get the appointment on the post of GDS BPM, Post Office Samicha, if he otherwise found fit as per law.

Learned counsel for the applicant relied upon the aforequoted judgment. It is pertinent to note here that the judgments of Hon'ble High Court (referred in para 4 of the above quoted judgment) relied upon by this Tribunal, were pertaining to treat the candidates, who have passed 'Adeeb' Examination conducted by the Jamia Urdu, Aligarh, at par with the matriculation from Board of Secondary Education. Hence, direction was issued to the Board of Secondary Education to consider and decide the cases with regard to issue of eligibility certificate. In our thoughtful consideration, issuance of eligibility certificate at par with matriculation would have entitled the petitioners therein to be eligible to take admission for higher courses of the Board but the question whether 'Adeeb' Examination by Jamia Urdu, Aligarh is

recognized equivalent to matriculation for the purpose of employment under Central Government, in this case the Postal Department, was per incuriam in the judgments of Hon'ble High Courts as referred by this Tribunal. The contention put forth by the respondents before this Tribunal in that case was restricted to whether educational qualification acquired by the applicant is not equivalent to the Secondary pass from Board of Secondary Education, Rajasthan. This Tribunal found the same equivalent relying upon the documents of Board of Secondary Education, Ajmer, Rajasthan as well as judgment of Hon'ble High Court in this regard. From perusal of the judgment, Annexure A/7 appears to be the document containing list of Boards of School Education recognized by Council of Boards of School Education in India having equivalence to 'Adeeb' Examination which is conducted by Jamia Urdu, Aligarh. The said 'Anudeshika' issued by Board of Secondary Education, Rajasthan, Ajmer has also been filed in the present case as Annexure A/8 which contains the name of Jamia Urdu, Aligarh at serial number 89. But, we are fortified in our views expressed above, by the document produced by the applicant as Annexure A/9. It is also to be noted that as per the copy of Notice from Board of Secondary Education, Rajasthan, Ajmer published in newspaper equivalence/recognition of Jamia Urdu, Aligarh has been cancelled wherein it has clearly been directed to the School Heads by the Board concerned that

candidates passed from Jamia Urdu, Aligarh would not be allowed to take admission in Higher Secondary and Senior Secondary Courses which required matriculation from recognized Board to undergo such courses. In other words, the eligibility issued by the Board of Secondary Education, Rajasthan, Ajmer was only with regard to taking admission in higher classes/education/courses and not for seeking employment in Central Government jobs. Thus, in our view, issue germane to the present controversy was not considered by the Court in the said judgment and the same does not help applicant in the present case in hand.

10. Similarly, in the case of Ravi Kumar & Ors vs Union of India & Ors (OA No. 2871/2015) decided on 25.07.2018 by the Principal Bench of this Tribunal, issue germane to the present controversy was open for consideration that whether such equivalence would entitle the candidate to seek employment on the post of GDS in the respondent-department though at para 2 of the judgment it has been mentioned that “The short question involved in this case is whether Adeeb exam from Jamia Urdu, Aligarh is equivalent to High School examination for the purposes of recruitment”. It is pertinent to note here that Ministry of Home Affairs, Govt. of India Notification No. 14021/2/78-Estt (D) dated 28.06.1978 whereby such equivalence/recognition at first place was afforded to ‘Adeeb’ examination conducted by Jamia Urdu, Aligarh for

employment under Central Government has not been considered at all in the said judgment, which reads as under:

2. The short question involved in this case is whether Adeeb exam from Jamia Urdu, Aligarh is equivalent to High School examination for the purposes of recruitment.
3. The applicants were engaged as Gramin Dak Sewak (GDSMD) under various sub-division of the respondents on different date in 2013. Since the respective dates of their engagement, they have been working in the respective posts. 3 OA 2871/2015
4. On 22.04.2015 from the office of Post Master General, Agra Region, Agra, a communication was addressed to the Senior Superintendent of Post Offices (SSPOs), Mathura Division informing that the above said certificates of Adeeb are not valid for the appointment to the posts of GDSMD. On the basis of the same, the engagement of all the applicants were cancelled with immediate effect by the impugned order dated 28.04.2015.
5. The counsel for the respondents relied on the above stated letter of the Post Master General, Agra Region. The counsel for the applicants has relied on DOP&T OM bearing No.14021/2/78-Estt.(D) dated 28.06.1978, which clearly states that the Adeeb examination by Jamia, Urdu Aligarh is equivalent to knowledge of Urdu of High School/Matriculation standard. The counsel for the applicants has further relied on the judgment of the Hon'ble Supreme Court in the case of Syeed Ahmad Vs. Secretary, Ministry of Health & Family Welfare and others, reported in (1997) 11 SCC 529), wherein it has been held that another examination by name Adeeb-e-Mahir from Jamia Urdu, Aligarh held to be equivalent to Matriculation and in another judgment of Hon'ble Allahabad High Court in the case of State of UP Vs. Mohammad Ishtiaque Ansari (Special Appeal Defective No.268 of 2014) also it has been held that the various examination conducted by Jamia Urdu, Aligarh are equivalent to Matriculation or B.A examination.
6. In view of the above, the OA is allowed. The impugned orders dated 28.04.2015 passed in respect to the applicants canceling their 4 OA 2871/2015 engagements are set aside. The respondents are directed to re-engage the applicants from 28.04.2015 with all consequential benefits. No

11. On the other hand, learned counsel for the respondents referred to the judgment of the Tribunal dated 25.07.2012 by co-ordinate Bench at Jaipur in OA No. 77/2011 wherein the CAT Jaipur Bench sustained the decision of the respondent of not giving appointment to the applicant on the post of GDSBPM for want of required educational qualification who had passed 'Adeeb' examination from Jamia Urdu, Aligarh. The relevant portion of the said judgment reads as under:

8. In SB Civil Writ Petition No. 8864/2011, Sunita Singh & Ors vs Board of Secondary Education, Rajasthan, Ajmer the Hon'ble Rajasthan High Court, Jodhpur Bench after following the judgment of the Division Bench in Civil Appeal No. 534/2005 decided on 21.01.2006, observed that Jamiya Urdu, Aligarh itself is declared an institution not established either under the orders of the Central Government or State Government or UGC.
9. In view of the aforesaid discussions and the ratio decided by the Hon'ble Rajasthan High Court (supra), we find no illegality in the action of the respondents for not giving appointment to the applicant on the post of GDSBPM, Badoli for want of required educational qualification and the OA being bereft of merit fails and same is hereby dismissed with no order as to costs.

12. As such, it is clear that Jamia Urdu, Aligarh is an institution not established either under the orders of the Central Government or State Government or UGC. Government of India, Ministry of Home Affairs vide Office Memorandum dated 28.06.1978 issued following directions :

The undersigned is directed to say that on the recommendations of the Board of Assessment for Educational Qualification, the Government of India have decided to recognise the following courses offered by the Jamia Urdu, Aligarh for the purposes of employment under the Central Government :

<u>Name of Examination</u>	<u>Nature of recognition</u>
Adeeb Examination	Recognized for the purposes of employment to the posts which require knowledge of Urdu of High School/Matriculation standard

Referring to the judgment of co-ordinate Bench at Jaipur and above OM, learned counsel for the respondents submitted that essential qualification for the post of GDS BPM, Dandali is 10th standard pass from a recognized Board. The question of equivalence only comes to fray, had knowledge of Urdu language was desirable or essential for the said post. We find force in the argument advanced by learned counsel for the respondents as applicant's qualification of 'Adeeb' examination passed from Jamia Urdu, Aligarh does not qualify for seeking equivalence for the purpose of employment under Central Government vis a vis other candidates who passed 10th standard from recognized Board where Urdu language is neither an essential nor desirable qualification. As such, the claim of the applicant that since he had qualified 'Adeeb' Examination conducted by Jamia Urdu, Aligarh prior to cancellation of its recognition by the Board of Secondary Education, Ajmer, Rajasthan has no relevance as candidature of the applicant was considered against a post which does not have knowledge of Urdu language as desirable or essential language. The said equivalence claimed by the applicant is limited to taking

admissions in higher secondary or senior higher secondary courses conducted by Board of Secondary Education, Ajmer, Rajasthan only.

13. In view of discussions hereinabove, we are of the considered view that judgment cited by learned counsel for the applicant does not cover the issue brought out by the respondents's side and only limited to the equivalence of 'Adeeb' Examination conducted by Jamia Urdu, Aligarh to Board of Secondary Education, Ajmer, Rajasthan. The issue of equivalence for the purpose of seeking employment under the respondent-department posts wherein knowledge of Urdu language is not required, has not been gone into. Hence, the case of the applicant is not covered by the said judgments. In view of Government of India, Ministry of Home Affairs vide Office Memorandum No. 14021/2/78-Estt(I) dated 28.06.1978 as quoted above, as well as judgment dated 25.07.2012 passed by coordinate Bench at Jaipur in OA No. 77/2011 (Kalu Ram Meena vs UOI & Ors), we hold that applicant cannot seek equivalence of educational qualification of recognized Board for seeking employment under Central Government wherein knowledge of Urdu language is not required. As such, we find no infirmity in Annex. A/1 communication dated 29.05.2013 issued by the respondents informing the applicant that applicant's selection has been cancelled as 'Adeeb' Examination conducted by Jamia Urdu,

Aligarh has not been considered as valid Board for the purpose of selection to the post of GDS BPM in Dandali, Sindhari, Barmer (Rajasthan).

14. The applicant has also challenged the advertisement dated 14.08.2013 (Annex. A/2) whereby post of GDS BPM Dandali has been sought to be filled up from SC candidate. In view of discussions hereinabove made, applicant is not eligible as he does not possess essential qualification, therefore, he has got no right to challenge the same on the grounds referred to in the present OA. Accordingly, we do not wish to interfere with the same and interim order dated 19.09.2013 directing the respondents to make no appointment in pursuance of advertisement dated 14.08.2013 (Annex. A/2) stands vacated. The respondents can proceed with the recruitment process, if otherwise in order, as per law.

15. In terms of above direction, OA is dismissed with no order as to costs.

**[Archana Nigam]
Administrative Member**

**[Hina P. Shah]
Judicial Member**

Ss/-