

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00241/2016

Date of order 22.07.2019

CORAM

HON'BLE MR. JAYESH V. BHAIKAVIA, MEMBER (J)

HON'BLE DINESH SHARMA, MEMBER (A)

- 1 Kamlesh Kumar Singh, S/o Sri Rajendra Prasad Singh, R/o Vill-Jagdishpur, Distt.- West Champaran (Bettiah).
 Applicant.

By advocate: Sri N.N. Singh.

Verses

1. The Union of India through Secretary, Ministry of Communication & IT Cum, DG Post, Dak Bhawan, New Delhi-110001.
2. The Chief Postmaster General, Bihar, Patna-800001.
3. The Postmaster General, North Region, Muaffarpur.
4. The Director Postal Services, Muzaffarpur.
5. The Superintendent Posts, west Champaran Div. Bettiah-845438.
6. The Inspector of Post Offices, East Sub Div. Bettiah-845438.
7. Sri Prem Chandra Yadav, S/o Sri Rudal Yadav, Vill-Rampurwa, Post Mahnwa, via-Majhauria, Distt.-Champaran.
 Respondents.

By advocate: Sri H.R. Singh.

ORDER (ORAL)

JAYESH V. BHAIKAVIA, MEMBER (J)- In the instant OA, the applicant has prayed that the impugned order of appointment issued on 30.06.2015 (Annexure-A/9) in favour of Sri Prem Chandra Prasad Yadav, may be quashed and set aside and respondents be directed to issue fresh advertisement for the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah).

2. It is contended by the applicant that respondents had issued employment notice dated 22.11.2014. It is further contended that the respondents had prepared comparative chart of the candidates of OBC category and according to it one Shri Dhananjay

Kumar, S/o Shri Bharat Prasad was appointed vide order dated 01.05.2015 (Annexure-A/3). The said selectee had joined to the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah) on 05.05.2015. (Annexure-A/4). It is the grievance of the applicant that he came to know through reliable sources that the educational certificate of Madhyama Examination granted by Bihar Sanskrit Shiksha Board, Patna of the said appointee, Shri Dhananjay Kumar is fake. The said appointee, i.e. Sri Dhananjay Kumar also came to know that he got appointment on the basis of fake educational certificate, he submitted a representation/application on 11.05.2015, before the respondents and refused to work as GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah) and also submitted that respondents may appoint somebody else in place of him (Annexure-A/7).

3. It is further contended by the applicant that respondent no.6, i.e. the Inspector of Post Offices, East Sub Div. Bettiah accepted the resignation of the said Dhananjay Kumar and cancelled his appointment. It is further contended that the respondent no. 6 has wrongly stated in his acceptance order that the said Dhananjay Kumar did not perform his duty after taking over the charge. However, he had cancelled his appointment. Thereafter, the said respondent no.6 has appointed one Shri Premchandra Yadav, S/o Sri Rudal Yadav to the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah) vide order dated 30.06.2015 (Annexure-A/9) without further notification or fresh public notice for completion of

due process of appointment to the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah). The applicant has received information under RTI wherein the respondents have admitted the fact that Sri Premchandra Yadav was appointed after cancellation of appointment of said Dhananjay Kumar to the said post (Annexure-A/10).

4. It is further contended by the applicant that respondents vide Office Letter dated 03.02.2016 informed the applicant that on receipt of applications, the list was prepared. This list does not cease to exist rather the next candidate in merit in same panel is selected in place of unwilling applicant. The panel is not cancelled merely on the ground of refusal of any candidate and there is no provision to readvertise after cancelling all applicants. There is no specific provision in this regard. (Annexure-A/11).

5. It is the grievance of the applicant that respondents have erroneously offered appointment to respondent no.7, i.e. Prem Chandra Yadav. The process of selection comes to an end with filling up of notified vacancies and waiting list cannot be used as a reservoir to fill up vacancies which comes into existence after issuance of notification/advertisement. The respondents have erroneously appointed respondent no.7, by operating merit list/panel list.

6. Respondents have filed their written statement and denied the contention of the applicant. It is contended by the respondents that in response to employment notice dated

22.11.2014, the respondents have received altogether 51 applications against one post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah). The selection of the candidate was made purely on the basis of highest marks obtained in Matriculation/equivalent examination. It was considered appropriate to call top 10 highest marks holders who fulfilled all criteria as advertised for interview. In the case of applicant, it is found by the respondents that applicant had also applied for the said post, however, he had not attached his School Leaving Certificate and Mark Sheets along with his application. As such, he was not called for interview. Since, the candidate, namely Dhananjay Kumar, possessed highest marks, had been offered engagement. However, he did not turn up and submitted his resignation from the post through his application dated 11.05.2017. The respondent no.7, i.e. Premchandra Yadav, being the next most suitable candidate and having highest marks was selected and offered engagement to the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah), vide order dated 30.06.2015. Under the circumstances, the claim of the applicant is devoid of merit and not entitled for any relief as sought in this OA.

7. The applicant has filed his rejoinder wherein it is additionally contended that as per the judgment passed by Hon'ble Apex Court in the case of State of Punjab Vs. Raghbir Chand Sharma & Ors. Reported in (2002) 1 SCC 113, the appointment of respondent no.7, after the resignation of first selectee is bad in law, since the panel prepared by the respondents does not exist after the

appointment of first selectee. The sole contention of the applicant is that respondents ought to have issued readvertisement for the said post.

8. We have heard the parties and perused the records. We are declined to accept the submission made on behalf of the applicant. It is not in dispute that the name of the applicant does not find place in Merit List with respect to selection process to the post of GDS MD/MC Majhari Kishun BO a/c with Jagdishpur SO under West Champaran Division (Bettiah). The respondents have contended that the applicant had not submitted School Leaving Certificate and Mark Sheet along with his application as required. As such, the application of the applicant is not valid application and he cannot be considered as a candidate in the said recruitment process. As such, the applicant has no vested right to claim any appointment to the said post.

9. As regards, the appointment of respondent no.7 is concerned, he was found more suitable candidate as he stood second in the Merit List. The judgment cited by the applicant is not helpful to the applicant under the facts and circumstances of the present case as applicant is not a valid candidate in the recruitment process.

10. Accordingly, the OA is dismissed being devoid of merit.

(Dinesh Sharma)/M(A)
Bp

(Jayesh V. Bhairavia)/(M) J