

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00403/2016

Reserved on 02.08.2019

Date of order : **13th Sept. 2019**

CORAM

HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER (J)
HON'BLE DINESH SHARMA, MEMBER (A)

Pintu Kumar, S/o Sri Surendra Ray, Resident of Village-Gauspur, P.O.-Mahisaur, P.S.-Jandaha, District-Vaishali.

..... Applicant.

By advocate: Sri Jayant Kumar Karn.

Verses

1. The Union of India through Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Director of Postal Services (HQ), O/o the Chief Postmaster General, Bihar Circle, Patna.
4. The Assistant Director (Staff & Recruitment), O/O the Chief Postmaster General, Bihar Circle, Patna.
5. The Postmaster General, Northern Region, Muzaffarpur.
6. The Superintendent, RMS 'NB' Division, Samastipur.

..... Respondents.

By advocate: Sri H.P. Singh.

O R D E R

JAYESH V. BHAIRAVIA, MEMBER (J)- In the instant OA, the applicant has prayed for the following reliefs:-

“8. A. Memo No. 23(B-3/PF/Pintu Kumar/2011-12) dated at Samastipur the 12.04.2016, issued by the Superintendent, RMS, 'NB' Division, Samastipur as contained in Annexure-A/5, maybe quashed and set aside.

B. The Selection and Appointment of applicant against the post of Sorting Assistant, RMS 'NB' Division, Samastipur may be declared correct, issued in accordance with the Rules of Recruitment & Advertisement, after observing due process of selection.

C. The respondent authorities may be directed to permit the applicant to join his post of Sorting Assistant in RMS 'NB' Division, Samastipur with all consequential benefits.”

2. The brief facts of the case of the applicant are as follows:-

(i) In pursuance to Employment Notice issued by Department of Posts in October, 2012, the applicant has participated in Selection against the post of Postal Assistant/Sorting Assistant. After appearing in all the stages of examination, he was succeeded in the selection process and selected against the post of Sorting Assistant and vide letter dated 20/25.12.2013, issued by Superintendent, RMS 'NB' Division Samastipur, applicant was directed to submit all his original documents (Annexure-A/1) for verification. The applicant deposited all his original documents/certificate in the office of Superintendent, RMS 'NB' Division Samastipur. Thereafter, all other candidates including applicant were directed to undergo for the Induction Training Course for Sorting Assistant Cadre at Postal Training Centre, Darbhanga commencing from 30.06.2014 to 23.08.2014. (Annexure-A/2).

(ii) It is further stated that after successful completion of 8 weeks aforesaid training, vide letter dated 23.08.2014 issued by the Assistant Director (Admin.), Postal Training centre Darbhanga, applicant was directed to report to his Divisional Head for further order/ direction. (Annexure-A/3). Thereafter, vide Memo dated 22.08.2014, issued by the Superintendent, RMS 'NB' Division Samastipur, the applicant was ordered to undergo for field training for 02 days from 25.08.2014 to 26.08.2014 and 06 days from 27.08.2014 to 01.09.2014 under IPO NB 3rd Sub Division, Barauni. (Annexure-A/4).

(iii) It is further stated that vide Memo dated 12.04.2016, issued by the Superintendent, RMS 'NB' Division Samastipur, applicant was intimated that his selection has been cancelled whereby referring letter dated 25.07.2015 issued by CFSL(K)/EE/2014 (PO)-2078/DXC-215/2014, issued by the Director, CFSL, Kolkata wherein it is stated that signature of applicant appearing some material differences existing between standard signature and questioned signature on that ground his selection was cancelled. (Annexure-A/5).

(iv) Learned counsel for the applicant submitted that the selection of the applicant has been cancelled on the basis of report of Forensic Report is misconceived. The applicant himself appeared in all stages of the Test/Examination and after thorough verification of each stage, he has succeeded in the said selection process, so the applicant is a genuine candidate. It is further stated that except Forensic Report, there is nothing against the applicant. He placed reliance on order passed in OA 112/2001 and OA 51/2003 (Annexure-A/6 and A/7) and stated that experts opinion as to handwriting is no evidence and it can rarely if ever take place of substantive evidence and before acting on such evidence it is necessary to see if it is corroborated either by clear direct evidence or by circumstantial evidence-AIR 1964 [SC] 529. Therefore, the applicant has prayed for appropriate direction.

3. The respondents have filed their WS wherein it is stated that result sheet of 12 recruited candidates of SA Cadre for the vacancy year 2011 & 2012 of RMS NB Dn. Samastipur was received on 15.12.2013 from the Office of the Chief Postmaster General, Bihar Circle, Patna vide letter dated 04.12.2013 (Annexure-R/1). The name of the applicant was also appeared in the result sheet in OBC category. Accordingly, the applicant was provisionally selected for appointment in OBC category in SA cadre in RMS NB Dn. Samastipur vide letter dated 20/23.12.2013 (Annexure-R/3) and after completion of pre-appointment formalities of all 12 candidates including the applicant were directed to undergo for the Induction training course vide Memo dated 27.06.2014 (Annexure-R/4). After completion of 8 weeks theoretical training, the applicant was directed to report to his Division for further order/direction vide letter dated 23.08.2014. Thereafter, all candidates were directed to undergo for field training vide due process of selection and after undergoing for field training under SRO RMS NB Dn Barauni.

In the meantime, a clear direction was received from Assistant Director (Recruitment), O/O Chief Postmaster General, Bihar Circle, Patna through G. Mail, dated 08.07.2014 (Annexure-R/5) for signature tally/ verification in respect of all newly recruited Postal Assistant/Sorting Assistant selected for the year 2011 and 2012 and for any discrepancy in r/o doubtful signature on different documents put by the applicant, the copies of related documents duly attested by divisional head may also be sent. In pursuance to above direction, the Superintendent, RMS 'NB' Division Samastipur verified the documents of all 12 selected candidates including applicant. On

verification of various documents of the applicant, it was found that on attestation form and signatures took on plain paper did not appear tallying with the documents received in dossiers *prima facie*. Then the attested photo copies of related documents of the applicant were sent to CPMG, Bihar Circle, Patna/Post Master General, Northern region, Muzaffarpur to issue the suitable action vide letter dated 14.07.2014 (Annexure-R/6). As per the direction of the Chief Postmaster General, Bihar Circle, Patna, the documents of the applicant were sent to the Director, Central Forensic Science Services, Ministry of Home Affairs, Govt. of India, Kolkata for verification of signature put on the documents noted below vide letter dated 01.12.20014 (Annexure-A/9). It is further stated that on the basis of the forensic report, dated 13.07.2015, of the Directorate of Forensic Science Services, Kolkata, the candidature of the applicant, who was provisionally selected for appointment to the cadre of Sorting Assistant for year 2011-12 under direct recruitment quota was cancelled vide letter dated 12.04.2016. Therefore, respondents prayed for rejection of this OA.

4. The applicant has filed rejoinder to WS on 15.07.2019 wherein it is stated that some identical cases have been dismissed by this Tribunal, being OA No. 888/2015 by referring a decision of Hon'ble Patna High Court dated 18.05.2018 passed in CWJC No. 7494/2017, Review Application has been filed against the dismissed case. (Annexure-A/9). It is further stated that the case of the applicant is not at all covered in the decision of Hon'ble Patna High Court as in the said case various other evidences were available but in the case of the applicant there is nothing against him except difference in signature (forensic report) and relied upon two decisions of this

Tribunal (Annexure-A/6 and A/7). It is further stated by the applicant that the case of the applicant is squarely covered by the order dated 05.02.2003 passed in OA 112/2001 and order dated 03.02.2004 passed in OA 51/2003. Therefore, the applicant has prayed for the reliefs as prayed in the OA.

5. We have heard the learned counsel for the parties and perused the records.

6. It is noticed that applicant along with other were provisionally selected as Postal Assistant/ sorting Assistant in the year 2011-12. The identity of selected candidates was suspected by the respondents and to get it verified, the respondents had sent relevant documents of the applicant which includes OMR application submitted by the applicant, answer sheet, declaration of OMR application and typing test as well as signature taken on plain paper were sent to CFSL and on the basis of report of Directorate of Forensic Science Services, Kolkata dated 13.07.2015 stipulates that the signature and handwriting of the applicant does not match with the specimen, therefore, the respondents came to the conclusion that applicant has acquired the employment by impersonation and, therefore, the selection of the application needs to be cancelled. Vide order dated 12.04.2016 (Annexure-A/5), the applicant was intimated that signature appears some material difference existing between standard signature and the signature in question. Therefore, his provisional candidature of selection has been cancelled with immediate effect. The main submission made on behalf of the applicant that the CFSL cannot be considered as conclusive proof for conclusion that applicant has

acquired employment by impersonation. No notice was served to him and there is a violation of principle of natural justice.

7. As against this submission, the respondents in their written statement admitted that the copy of said opinion of CFSL was not supplied, however, it is further submitted by the respondents that the same could have been supplied to the applicant, if he would have requested for it. It is noticed that admittedly, before issuance of impugned order dated 12.04.2016, the said opinion of CFSL was not supplied to the applicant. It is also noticed that in the impugned decision, it is categorically stated by the respondents that the provisional candidature of the applicant as Sorting Assistant has been cancelled for the reason that they have received the CFSL report dated 08.06.2015, and according to it, there is material difference exist between standard signature and the question signature of the applicant.

8. In our considered view, the respondents have not provided due opportunity to the applicant before issuance of impugned order since it is noticed that, according to the respondents, the CFSL has only opined differences in the signature of the applicant. No material on record with regard to any examination by the CFSL of thumb impression etc. Under the circumstances, the judgment laid down by the Hon'ble Apex court is squarely applicable, in the present case. Therefore, the impugned order dated 12.04.2016 is set aside with a direction to the respondents to re-examine the case of the applicant within a period of 60 days from the date of receipt of a copy of this order and if the respondents so desire, it can proceed further against

the applicant after supplying copy of opinion of CFSL to the applicant on which they proposed to place reliance for cancellation of provisional selection of the applicant as Sorting Assistant.

9. Accordingly, O.A. is partly allowed. No cost.

Sd/-

(Dinesh Sharma)/M(A)

Sd/-

(Jayesh V. Bhairavia)/(M)J

Bp