

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00639/16**

Date of Order: 21.10.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Abhishek Kumar, S/o Sri Sona Singh, resident of Village- Dharseni, PO- Kutot, PS- Barbigha, District- Sheikhpura.

.... **Applicant.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India through the Chief Postmaster General, Bihar Circle, Patna.
2. The Superintendent of Post Offices, Sheikhpura Sub Division, Sheikhpura.
3. The Assistant Superintendent of Post Offices, Sheikhpura Sub Division, Sheikhpura.
4. The Secretary, Jharkhand Academic Council, Gyandeep Campus, Bargawan, Namkum, Ranchi- 834010.
5. Sri Kailash Kumar, S/o Sri Rama Kant Prasad Singh, Vill & PO- Mehus, District - Sheikupura, at present working as GDSMC at Issa Branch Post Office in account with Mehus Sub Post Office under Munger HO.

.... **Respondents.**

By Advocate: - Mr. Kumar Sachin for official respondents.

Mr. S.K. Tiwary for private respondent.

OR D E R

Per Dinesh Sharma, A.M:- In this OA, the applicant has prayed for quashing the appointment of respondent no. 5 against the post of GDSMC, Issua Branch Post Office in a/c with Mehus Sub Post Office under Munger Postal Division and to consider the candidature of the applicant for appointment against this post. According to the applicant, respondent no. 5, Kailash Kumar, has got this appointment by producing forged marksheets. The applicant has got this information by making an application under RTI

to Secretary, Jharkhand Academic Council asking for details of the students on Roll Code 04201 Roll No. 0192, year 2005 and he has been informed that this number belongs to one Pawan Mandal who had passed in 2nd Division securing total 259 marks. Since the applicant has secured more marks and since the respondent no. 5 has not provided correct information to the respondent authorities the selection of respondent no. 5 should be quashed and the applicant should be appointed in his place.

2. The official respondents have filed a written statement in which they have denied the claim of the applicant. They have stated that Shri Kailash Kumar had secured the highest marks amongst the candidates who had applied for the post. The genuineness of his certificates was verified by Jharkhand Academic Council. The Principal of the school where Kailash Kumar studied also confirmed the genuineness of his certificates. He was appointed since he fulfilled all the conditions advertised in the notification. The applicant Shri Abhishek Kumar was having only 389 marks out of 500 which comes to 77.8% as against 625 out of 700 secured by Kailash Kumar (89.27%). Since the applicant was far behind in the merit list, it is submitted in the written statement “for arguments sake only”, that even if the certificates of the said Kailash Kumar were not genuine the applicant has no case as he was placed at Sl. No. 20 in the merit list.

3. No rejoinder has been filed.

4. We have gone through the pleadings and heard the arguments of the learned counsels for the parties. The learned counsel for the applicant cited a decision by this Tribunal in OA 38/2013. In that case this Tribunal

had directed the official respondents to consider the case of the applicant therein since she had secured 1st Division, she alone had challenged the appointment and the challenge was found to be genuine. The applicant, in this case, has challenged the appointment of respondent no. 5 and produced some information received through RTI throwing doubt about the genuineness of the certificates produced by respondent no. 5. The official respondents have categorically confirmed that the appointment was made after a thorough check was done about the genuineness of the certificates produced by respondent no. 5. What we have before us are two documents from Jharkhand Academic Council, one dated 19.06.2015 issued to Assistant Postal Superintendent, Shekhpura Sub Division in which they have confirmed Kailash Kumar having secured 625 marks. Another document, dated 08.03.2016, is a letter issued under RTI by Jharkhand Academic Council to the applicant where a different name and different marks are shown against the same Roll Code. Since the first document has been specifically issued to the Postal Authorities on their request for confirmation, we do not find any mistake in the appointment issued to respondent no. 5 after getting such confirmation. The information secured by the applicant can at best be a reason for doubting and conducting further enquiry. It will not, ipso facto, give a right to the applicant to have the appointment cancelled and claim appointment in his place.

5. In the decision of this Tribunal quoted by the learned counsel for the applicant the original appointee was actually found to have given fake marksheet and the

the Department had taken action to terminate his appointment. In the current case the Department has not taken any such action. In the light of the categorical denial by the respondents, we cannot quash the appointment of respondent no. 5 only on the basis of an RTI reply allegedly received by the applicant with respect to the roll code of respondent no. 5. The OA is, therefore, not allowed. The respondents are, however, expected to re-verify the genuineness of the certificates produced by respondent no. 5 to further re-confirm absence of any malpractice. It would not be correct on our part to issue any direction in favour of the applicant, as done in the earlier case cited by the applicant (OA No. 38 of 2013), on the basis of a hypothetical outcome of such re-verification. No order as to costs.

**[Dinesh Sharma]
Administrative Member
Sr.k.**

**[Jayesh V. Bhairavia]
Judicial Member**