

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00471/2016

Reserved on : 06.12.2019
Date of Order :10.12.2019

C O R A M

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

Guria Kumari, D/o Bipin Kumar, resident of Village & P.O.- Gagaur, Via-Mahus, District-Sheikhpura.

..... Applicant.

- By Advocate : Shri S.K.Tiwary

-Versus-

1. The Union of India through the Director General cum Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle, Patna.
3. The Superintendent of Post Offices, Munger Division, Munger.

.....Official Respondents.

By Advocate :- Shri G.K.Agarwal, Id. ASC

4. Ajay Kumar, son of Sri Naresh Kumar, Village + P.O.-Galai, District Sheikhpura, working as GDS BPM Sirari Imamnager B.O. in A/c with Sirari S.O. in Munger Postal Division.

.....Private Respondent.

By Advocate :- Shri J.K.Karn.

O R D E R

Per Mr. Dinesh Sharma, A.M.:- In the instant OA, the applicant has prayed for cancellation of the appointment of respondent no. 4 from the post of GDSBPM, Sirari Imamnagar BO in account with Sirari SO, in Munger

Postal Division, vide memo dated 26.06.2015. The applicant has also prayed for her appointment on this post, with all consequential benefits.

2. The case of the applicant is that the appointing authorities have, for extraneous reasons ignored the best candidature of the applicant and selected respondent no. 4 who has not passed matriculation examination as regular student with compulsory subject claiming higher marks.

3. The Official respondents have filed a written statement in which they have stated that the post of GDSBPM Sirari, Imamnagar BO, in account with Sirari SO, became vacant due to resignation of permanent incumbent on the post. Following Notification dated 19.01.2015, 45 applications were received. A merit chart of all the 45 candidates was prepared on the basis of marks obtained in matriculation or equivalent examination. One Shri Rinku Parmar, had the highest marks in Madhyama examination. However, on verification, it was revealed that he was having lesser marks and, the certificates submitted by the said Rinku Parmar were found to be fake. The second candidate in merit was Shri Ajay Kumar (respondent no. 4 herein). The third candidate in merit was Miss Guriya Kumari (the applicant herein). Since Shri Ajay Kumar was having highest marks after conducting verification and since he fulfilled all criteria for engagement on the post, the order of his engagement to this post was issued on 26.06.2015 and he joined the post on 30.06.2015. Since the contention of the applicant about respondent no. 4 having secured higher marks is wrong, the OA deserves to be dismissed.

4. The applicant filed a rejoinder on 28.01.2019 in which she has annexed (Annexure A/4), information received by one Ranjan Kumar about Ajay Kumar having received a lesser percentage of marks (77.7 instead of 79.4 percent) than what is shown in the written statement filed by the official respondents. The applicant has also annexed copy of the mark sheet of Bihar School Examination Board, Patna (Annexure A/5) where marks obtained by the one Ajay Kumar are less than what is alleged in the written statement. They have also alleged that non filing of the reply by respondent no. 4 till date and again appearing in metric examination in the year 2001 from BSEB, Patna with different date of birth, is not permissible as per law.

5. A written statement has been filed by respondent no. 4 on 09.09.2019 in which he denied the allegations made in the rejoinder and requested the Tribunal to put the applicant to strict proof to substantiate her submission in the rejoinder and annexure A/5 annexed therein.

6. We have gone through the pleadings and heard the arguments of learned counsels of both the parties. On comparing the marks as shown in the written statement (Annexure R/1) with the marks shown in Annexure A/4 of the rejoinder, we find that the percentages of marks are calculated on different basis. While the percentage of marks in Annexure R/1 is calculated with respect to marks obtained excluding optional paper, the percentage of Annexure A/4 is that of total marks. Thus, these two percentages are not comparable. The Annexure A/5 produced by the applicant is apparently not that of Ajay Kumar (respondent no. 4 herein), and it relates to some other person and thus, it is clearly an attempt to

mislead this Tribunal. Since it is very clear from the written statement and Annexure R/1 filed along with it that the percentage of marks received by the applicant (while applying a common criteria) was less than the percentage of marks secured by the respondent no. 4, we do not find any merit in the claim made by the applicant in this OA. Therefore, the OA is dismissed. No costs.

[Dinesh Sharma]
[Administrative Member

[J.V. Bhairavia]
Judicial Member

Pkl/

