

Neutral Citation No. - 2023:AHC-LKO:74146-DB

Court No. - 1

Case :- WRIT - A No. - 8746 of 2023

Petitioner :- Dharmendra Kumar Tiwari

Respondent :- Union Of India Thru. Chief Post Master General U.P.
Lko. And Others

Counsel for Petitioner :- Praveen Kumar, Saroj Kumar Verma,
Sudhanshu Srivastava

Counsel for Respondent :- A.S.G.I.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

- (1) Heard Shri Sudhanshu Srivastava, learned Counsel representing the petitioner and Shri S.B. Pandey, learned Senior Advocate/ Deputy Solicitor General of India representing the Union of India/respondents no.1 to 3.
- (2) The challenge in the present writ petition under Article 226 of the Constitution of India is to order dated 4th January, 2023 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow (hereinafter referred to as '**Tribunal**'), whereby Original Application No. 332/00161/2013 filed by the applicant/respondent no.4 herein (Neeti Sandal) was allowed by quashing the appointment of the writ petitioner (respondent no.4 in the original application) on the post of GDS Paiker and further respondents no.1 to 3 were directed to consider the claim of the applicant/respondent no.4 herein as per rules on the post of GDS Paiker.

- (3) The Assistant Superintendent of Post Offices, East, Sub-Division, Lucknow, vide notification dated 15.12.2010, had published advertisement for one post of GDS Paiker at Aishbagh, Divisional Office, Lucknow. One of the requisite qualification for the said post was that the candidate should possess a class VIII certificate, however it was mentioned in the said notification that preference would be given to those candidate(s) who have passed High School.
- (4) Apparently, the petitioner, in pursuance of the aforesaid notification, applied along with other candidates including respondent no.4-Ms. Neeti Sandal. After scrutinizing the applications submitted by the candidate(s), the petitioner being 2nd in the merit list was offered appointment on the post in question as 1st candidate in the merit list was not willing to join.
- (5) Aggrieved by the appointment of the petitioner on the post in question, the respondent no.4-Ms Neeti Sandal preferred Original Application No. 332/00161/2013 before the Tribunal. The case of the respondent no.4 before the learned Tribunal was that the petitioner's qualification i.e. Prathama Examination (equivalent to High School) from Hindi Sahitya Sammelan, Allahabad, was not a recognized qualification and contrary to the notification dated 15.12.2010, whereas respondent no.4 had passed High School Examination from the recognized board,

but even then, the petitioner was offered appointment on the post in question.

- (6) Noticing the notification dated 15.12.2010 as well as office memorandum dated 21.11.2016 issued by the Government of India, Ministry of HRD, Department of Higher Education, the learned Tribunal has arrived at a conclusion that on the relevant date i.e. between 15.12.2010 to 15.01.2011, provisional recognition granted to Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad for the purpose of employment under the Central Government for the post in question for which the desired qualification was to pass in Matriculation, could not be enforced and was as such not the requisite qualification for the post of GDS Paiker as per notification dated 15.12.2010. In this backdrop, the learned Tribunal opined that since the petitioner was not having the requisite qualification as per the notification dated 15.12.2010, therefore, he was not eligible as per the vacancy advertised on 15.12.2010 for the post in question and accordingly, the learned Tribunal allowed the original application by quashing the appointment of the petitioner on the post in question and it was directed to the respondents no.1 to 3 to consider the case of the respondent no.4 as per rules, vide judgment and order dated 04.01.2023. It is this order dated 04.01.2023, which has been assailed in the instant writ petition.

- (7) Having regard to the submissions raised by the learned Counsel for the parties and going through the record available before this Court, it is required to be noted that the petitioner had passed Prathama Examination from Hindi Sahitya Sammelan in the year 2005, whereas the respondent no.4 had passed High School Examination from the Board of High School & Secondary Examination. As per the notification dated 15.12.2010 advertised for the post in question, the requisite qualification was VIII Class and preference would be provided to the candidate who passed High School. The last date of submission of the application was 15.01.2011.
- (8) Apparently, vide notification dated 21.11.2006, the Government of India, Ministry of Human Resource Development, Department of Higher Education, in continuation of department's notification dated 14.05.2014 and on the recommendation of the High Level Committee held on 16.10.2016, had extended the provisional recognition granted to Prathama Examination being conducted by Hindi Sahitya Sammelan, Allahabad for the purpose of employment under the Central Government for the post for which the desired qualification is a pass in Matriculation for a further period of three years from 27.10.2007 to 26.10.2010. Subsequently, vide notification dated 10.07.2012, the Under Secretary Government of India notified that no further extension will be granted by the

Ministry regarding extension of Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad. Meaning thereby the Government of India had not recognized the qualification of Prathama examination conducted by Hindi Sahitya Sammelan w.e.f. 27.10.2010.

(9) Apparently, the advertisement for the post in question was published on 15.12.2010 and the last date of submission of the application was 15.01.2011. At that relevant time i.e. between 15.12.2010 to 15.01.2011, the Prathama Examination conducted by the Hindi Sahitya Sammelan, Allahabad was not recognized by the Government of India in view of the notification dated 10.07.2012. The learned Tribunal, thus, has arrived to the conclusion that the petitioner was not having the requisite qualification as per the vacancy advertised and as such, the learned Tribunal quashed the appointment offered to the petitioner on the post in question and directed the respondents no. 1 to 3/Union of India to consider the candidature of the respondent no.4 on the post in question vide impugned judgment and order.

(10) Having gone through the material available on record and the reasoning recorded by the learned Tribunal, we are of the view that the reasoning assigned in the impugned judgment/order is convincing and does not leave any scope for Judicial Review of

this Court, so as to interfere in exercise of writ jurisdiction under Article 226 of the Constitution of India.

(11) The writ petition being bereft of any merit is, accordingly, **dismissed.**

(Om Prakash Shukla, J.) (Attai Rahman Masoodi, J.)

Order Date :- 8.11.2023

kanhaiya/Ajit/-