

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13736 of 2015

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1. The Union Of India through the D.G. cum 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 and Recruitment), O/o the Chief Postmaster General, Bihar Circle, Patna.
 5. The Superintendent of Post Offices, Saharsa Division, Saharsa.

.... Petitioner/s

Versus

1. Kundan Kumar, Son of Sri Sarwan Paswan, Resident of Village- Brijpur, P.O.- Noorsarai, District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar(ASG)

For the Respondent/s : Mr. Bindhyachal Singh

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 05-10-2015

The Union of India, in the Department of Posts, is aggrieved by the judgment and order dated 6-5-2015 of the Central Administrative Tribunal, Patna Bench, Patna, passed in O.A./050/00922 of 2014(Kundan Kumar Vs. Union of India and others). The Tribunal has allowed the O.A. application and quashed the letter of termination of service of the applicant before it. The applicant before the Tribunal is the sole contesting respondent, who has since appeared in this Court.

2. We have heard the parties, and with their consent, dispose

of this writ application at this stage itself.

3. The facts are not at all in dispute. An Advertisement was issued by the Postal Department for recruitment of Postal Assistants/Sorting Assistants for different Post Offices/R.M.S. in the State of Bihar. The contesting respondent applied and went through the entire selection process, which includes written examination, interview etc. He was then selected. He was then sent for training , and thereafter he was duly appointed in August 2014. Later on, the Postal authorities took a view that the applicants like the respondent herein, did not have English as a compulsory subject at the Intermediate (Plus-2) level, and, accordingly, notices were issued to them as to why their appointment be not cancelled. In the case of this respondent, he did not respond, and, accordingly, his appointment was cancelled on the ground that he was, in fact, ineligible. It is because of that, he moved the Tribunal, and succeeded in getting the letter of cancellation of his appointment quashed.

4. The dispute is that ,as per the terms of recruitment, the applicant had to have English as a Compulsory subject at the intermediate (Plus-2)level. There is no allegation that the applicant either concealed any information or misled any authority. It is not in dispute that the applicant had filed his marksheet for the Intemediate Examination, as conducted by the Bihar School Examination Board,



which clearly shows that one of the papers he had taken, was an Alternative English under Compulsory head. It appears that the Postal authorities had taken a clarification from the Examination Board, and the Examination Board, without understanding the implication of the requirement, clarified that the alternative English was different from the mother tongue i.e., Language and Literature, though it came under different category of Compulsory subject. It is on that basis that the authorities then took the view that the English was not a compulsory subject. The Tribunal disagreed and, in our view, rightly so.

5. First, we may notice as to what was the object of requirement of English to be a compulsory subject at the Intermediate level. The recruitment was for the post of Postal Assistant/Sorting Assistant. Therefore, by nature of work, good knowledge of English was necessary. Postal addresses are normally written in English, specially when the articles are being received in the State from outside. Sri Bindhyachal Singh, learned counsel appearing for the contesting respondent has produced before us the Intermediate marksheet of the contesting respondent, granted by the Bihar School Examination Board, which was a part of the record before the Tribunal. Mr. Sanjay Kumar, counsel for the petitioners has no objection to the Court in looking into it. The marksheet clearly shows that the subjects are divided in three categories, namely,

(i)Compulsory (ii)Optional ;and (iii) Additional. Physics, Chemistry and Mathematics are subjects in Optional category ; in Compulsory subject, Non-Hindi is one paper, Alternative English is one paper and Hindi is the third paper. Merely because it is written Alternative English, it cannot be said that it is not a Compulsory paper, because it is an election in respect of Compulsory language paper. Electing English as Compulsory paper does not make it in any manner worse or unequal to Compulsory English paper simpliciter. The quantum of marks makes little difference. The Advertisement does not specify any such qualification. The fact remains that the contesting respondent had the compulsory paper of English. He had to compulsorily elect a language, which he elected English and passed. Therefore, in our view, the Postal authorities were wrong, and the Tribunal was correct in its view. We have, therefore, no reason to take a different view than that of the Tribunal.

6. We, thus, dismiss the writ petition and affirm the order of the Tribunal.

(Navaniti Prasad Singh, J)

B.K.Roy/-

(Nilu Agrawal, J)

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