

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10395 of 2015

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1. The Union of India through the Secretary-cum-Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Post Master General, Bihar Circle, Patna.
 3. The Director of Postal Services, O/o the Chief Post Master General, Patna.
 4. The Assistant Director, Recruitment, O/o the Chief Post Master General, Bihar Circle, Patna.
 5. The Superintendent of Post Offices, Begusarai Division, Begusarai.

.... Petitioner/s

Versus

Md. Saddam Hussain, Son of Sri Sheikh Kalam, Resident of Mohalla- Pokharia, Ward No. 23, behind S.B.I. Main Branch, District Begusarai.

... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, ASG

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 16-05-2016

The challenge in the present writ petition is to an order dated 12.09.2013 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') in O.A. No. 761 of 2011 whereby an Original Application filed by the applicant, respondent herein, was allowed and he was ordered to be appointed in place of Miss Khushboo Kumari.

2. The applicant-respondent was a candidate for



appointment to the post of Postal Assistant of Begusarai Postal Division, Begusarai. The result of selected candidates was notified on 02.12.2010. Miss Miss Khushboo Kumari was one of the selected candidates whereas the applicant was in the waiting list. Selection of Miss Khushboo Kumari was cancelled, as during testimonial verification it was found that she has certificate of 10 + 2 examination, which was purely vocational and not eligible to apply in view of specific terms as contained in the advertisement. The applicant applied for his appointment.

3. The claim of the applicant for appointment, after cancellation of the candidature of Miss Khushboo Kumari, was rejected on the ground that he applied for appointment after expiry of six months of the currency of the waiting list and secondly, Miss Khushboo Kumari has filed an Original Application before the Tribunal against the cancellation of her candidature, therefore, the claim of the applicant cannot be considered.

4. The Tribunal dismissed the Original Application filed by Miss Khushboo Kumari on the same day passed in her O.A.No. 434 of 2011 and ordered appointment of the applicant.

5. Once, Miss Khushboo Kumari was found ineligible for appointment, the applicant, who was at serial no. 1 in the waiting list, was rightfully entitled to be appointed. Such action was required

to be taken by the petitioners, but if the petitioners have failed, the applicant has rightly represented for appointment. Thus, on failure of the petitioners not to appointment him, he rightly invoked the jurisdiction of the Tribunal.

6. We do not find any error in the order passed by the Tribunal. However, It is clarified, that appointment of the applicant-respondent will be subject to any action, which may be taken by Miss Khushboo Kumari against the order passed by the Tribunal in her Original Application. The writ petition stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

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