

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2342 of 2016

Arbind Kumar, son of Sri Siya Singh, Resident of Village- Badokhara, P.O. Orhanpur, P.S. +District -Nawada, working under the M.T.S. Nawada, Ledha, Line, S.D.I. (P) South Sub Division, Nawada, District Nawada.

.... Petitioner/s

Versus

1. The Union of India through, Director General, Department of Post, New Delhi.
2. The Chief Post Master General Bihar, Circle, G.P.O. Complex, Patna.
3. The Director of Post Head Quarter, Patna.
4. The Superintendent of Post Office, Nawada Postal Division Nawada.
5. The Assistant Superintendent of Post Office, Nawada Sub Division, Nawada.
6. Diwakar Prasad Group- D Working under the Sub Divisional Inspector south Sub Division, Nawada.
7. Ajit kumar Singh - D working Under the Assistant Superintendent of Post office, Nawada, Sub Divisional Nawada.
8. Kumar Krishnandan D working Under the Assistant Superintendent of Post office, Nawada, Sub Divisional Nawada.
9. Naresh Prasad Yadav, Group D Working under the Sub Divisional Inspector, South Sub Division Nawada.
10. Ramashray Singh, Son of late Bhagaru Singh, resident of Village- Bindidih, P.O- Bindidih, P.S- Silao, District Nalanda.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Devendra Prasad Singh, Advocate.

For the Respondent/s : Mr. S.D Sanjay, Additional Solicitor General
Mr. Abhay Shankar Jha, C.G.C.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 26-09-2016

Heard learned counsel for the parties.

2. The challenge in the present writ petition is to an order dated 11th of September, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in O.A. No. 853 of 2012 by which the application filed by Ramashray Singh (Respondent No. 10) has been allowed and the present petitioner was ordered to make

room for the said applicant.

3. Ramashray Singh (Respondent No. 10) was initially appointed as Extra Departmental Delivery Agent (EDDA), now called as Gramin Dak Sevak. As per letter dated 5th of June, 2012 of the Chief Post Master General, Bihar Circle, Patna, a willingness letter for promotion to the post of Multi Task Service (M.T.S.) from amongst the GDS staff of Nawadah Division was called for. The applicant conveyed his willingness for promotion to the post of postman vide letter dated 09th of July, 2012, but he was not considered for promotion. In the written statement, the stand of the official respondents is that though the applicant expressed his willingness, but subsequently on 12th July, 2012, he refused to work on departmental post, therefore, the name of the applicant was not considered and included in the selection list.

4. The Tribunal found that the letter dated 12th July, 2012 has been misinterpreted as the applicant never refused promotion to the post of MTS and, therefore, the applicant is entitled to be promoted as Multi Task Service according to his seniority.

5. Petitioner Arbind Kumar is junior most MTS in the cadre of G.D.S., therefore, he was directed to make room for the applicant. The Tribunal has given the following findings in paragraph 9 of its order which reads as follows :-

“The applicant has annexed copy of Gradation List of GDS under Nawadah Division, as corrected upto 01.07.2010.



According to the said list, the applicant is senior to all the GDSs who were appointed vide order dated 17.07.2012 except Shri Ram Baran Singh, who was GDS MD/MC B. Makhdumpur via Tarwan. We also note that the respondents in their written statement have stated that Shri Diwakar Prasad, Shri Ajit Kumar Singh and Shri Naresh Prasad Yadav were appointed against OBC category. From the proceedings of the DPC, it emerges that there were only two posts of OBC for GDS and only Ajit Kumar Singh and Naresh Prasad Yadav were recommended in this category. Shri Ram Baran Singh, Diwakar Prasad and Kumar Krishna Nandan were recommended by DPC for appointment against three posts of UR category. Thus, contention of respondents that Sri Diwakar Prasad was appointed against OBC category post is not correct. Shri Diwakar Prasad was junior to applicant in the gradation list.”

6. Learned counsel for the petitioner vehemently argued that the applicant before the Tribunal has given in writing refusing his promotion and, therefore, the Tribunal was not correct in allowing the Original Application filed by him. It is also contended that there are posts available in the department on which he can be considered for promotion.

7. We have heard learned counsel for the petitioner and find that the letter dated 09th of July, 2012 given by Ramashray Singh was his un-willingness to be promoted as Postman and not for declining promotion to the post of Multi Task Service. The post of Postman and Multi Task Service are two different posts having different eligibility criteria for promotion. Since the applicant has not shown any disinclination for promotion to the post of Multi Task Service, the

communication dated 12th July, 2012 to be posted as Gram Dak Sevak cannot be used as a refusal for promotion to the post of Multi Task Service. We do not find any error in the order passed by the Tribunal.

8. In respect of the argument that there are other posts available against which the case of the writ petitioner can be considered, cannot be allowed. It is relevant to say that since the claim of other eligible candidates has also to be considered against the available posts, there cannot be any direction from this Court to promote the present writ petitioner without considering the claim of other eligible candidates. As and when the department decides to fill up the vacant posts of M.T.S., the case of the petitioner shall be considered for the said post in accordance with law.

9. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Amin/-

AFR/NAFR	N.A.F.R.
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