

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17394 of 2019

=====

Vidya Bhushan Prasad Son of Sri Janardan Prasad Yadav Resident of
Mohalla- Girihinda, near Mahendra Lodge, P.O. and District- Sheikhpura.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Department of Posts, Government of India, New Delhi.
2. CPIO and Assistant Director (Administration) G.P.O., New Delhi.
3. Assistant Director (Rectt. and Staff) Department of Posts, Office of Chief Postmaster General, Bihar Circle Patna.
4. Abhimanyu Kumar Son of not known, Postal Shorting Assistant, Samastipur Postal Division, District- Samastipur.
5. Kanhaiya Kumar Son of not known, Postal Shorting Assistant, Samastipur Postal Division, District- Samastipur.
6. Ashish Kumar Son of not known, Postal Shorting Assistant, Samastipur Postal Division, District- Samastipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Hemant Kumar Karan, Advocate Mr. Sujeet Kumar, Advocate
For the Respondent/s	:	Mr. S.D. Sanjay, A.D.S.G. Mrs. Kanak Verma, C.G.C. Mr. Mohit Agarwal, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-09-2019

Heard learned counsel for the petitioner.

We had entertained the writ petition after going
through the pleadings by the following order dated 26.08.2019:-

“Heard learned counsel for parties.

Having gone through the pleadings, the
contention on behalf of the petitioner appears to be that
the Tribunal has delivered a judgement contrary to the



directions issued by the High Court in the earlier judgement of the Division Bench dated 20th of April, 2011. Learned counsel contends that in view of the said directions the respondents have failed in preparing a common merit list and have committed the same error of proceeding to deal with the case with two separate merit lists for the Postal Assistants and Shorting Assistants.

We find from the impugned order of the Tribunal that the contention of the petitioner has been rejected on the ground that instruction No.25.1 stipulates a common merit list for the whole circle. Thereafter the candidates are given liberty to give their preference for selection of of Division where the particular vacancy has been notified.

We are unable to gather as to what is instruction No.25.1 in order to either sustain or otherwise pass any opinion on the finding recorded by the Tribunal.

Let the said instruction No.25.1 be produced by either of the parties for proceeding further in the matter. List on Monday next i.e. 2nd of September, 2019.”

There is no dispute that the applicant had also appeared in the examinations and his score is 71. There is also no dispute that the last cut-off score for the post of Postal Assistant in Post Offices is 75. There is also no dispute that the petitioner had applied for the post of Postal Assistant in Post Offices (PAPO). This fact is evident from the examination form for direct recruitment filled up by the petitioner and the admit card issued to him where he has categorically indicated the said



post and has further specified the postal circle applied for as Bihar-13.

The petitioner came up before the Tribunal contending that since he has 71 marks and since candidates possessing 68 marks have been selected and appointed as Sorting Assistant after having become successful in the same examination, the petitioner having a higher score of 71 deserves to be considered.

Shri S.D. Sanjay, learned A.S.G.I., appearing on behalf of the respondents, contends that once the option for a particular post has been exercised then, according to the instructions that has been considered by the Tribunal, the candidate is not allowed to change his option as he can only exercise one option. Clause-7 of the instructions is extracted hereinunder:-

“7. Name of the Post applied for: Postal Circle wise vacancy position for various posts in its Postal Divisions is detailed in the notification as advertised by respective Postal Circles. Write the name of the Post in the box as per the list of posts (mentioned below) at line Item No. 7 and also darken the corresponding circle against the name of the post. The Applicant has to indicate one option only for the Posts advertised as per



Newspaper notification issued by the Circle. If multiple options are given, the Application will liable to be rejected summarily.

	Name of the Post	Name of the Posts	CODE
1.	POSTAL ASSISTANT IN POST OFFICES/GPO/HO		PAPO
2.	POSTAL ASSISTANT IN SAVING BANK CONTROL ORGANIZATION		PASBCO
3.	POSTAL ASSISTANT IN CIRCLE OFFICE/ REGIONAL OFFICE		PACO/RO
4.	POSTAL ASSISTANT IN RETURNED LETTER OFFICE		PARLO
5.	POSTAL ASSISTANT IN MAIL MOTOR SERVICE		PAMMS
6.	POSTAL ASSISTANT IN FOREIGN POST ORGANIZATION		PAFPO
7.	SORTING ASSISTANT IN RAILWAY MAIL SERVICE		SARMS

”

The code list and the preferences that can be given as per Clause 24 and 25 are extracted hereinunder:-

“24. Postal Circle code for which applied (Code List-1 given below): The Applicant must indicate the Postal circle code to which he/she is applying in the box and also darken the appropriate circle underneath. The correct code numbers should be indicated in the box.

CODE LIST-1 (List of Postal Circles)					
Name of the Circle	Code	Name of the Circle	Code	Name of the Circle	Code
Andhra Pradesh	11	Jammu & Kashmir	19	Punjab	27
Assam	12	Jharkhand	20	Rajasthan	28
Bihar	13	Karnataka	21	Tamilnadu	29



Chhattisgarh	14	Kerala	22	Uttar Pradesh	30
Delhi	15	Madhya Pradesh	23	Uttarakhand	31
Gujarat	16	Maharashtra	24	West Bengal	32
Haryana	17	North East	25		
Himachal Pradesh	18	Odisha	26		

25. Preferences of the Divisions of the Postal Circle applied for appointment: The Applicant must indicate the division code (applicable number or maximum of ten) in the box in the order of preference to which he/she is applying and also darken the appropriate circle. The candidates should indicate division codes of respective circle, to which he applied in item no. 24. Any variation will lead to rejection. For example, if a candidate applied for Haryana circle, he should indicate division codes in Haryana circle only. The details of divisions is given in code List II below. For the PARLO and PA(FP) the applicant may fill only one preference of the found digit Circle Code mentioned at the beginning of Code List-II of the circle concerned.”

A perusal of the said instructions leaves no room for doubt that it is against only one post and the circle concerned where a person can apply and admittedly, the petitioner had applied for the post of PAPO and not that of a Sorting Assistant. Consequently, the comparison being made with regard to merit of the Sorting Assistant is absolutely untenable as the petitioner had not applied for the said post. If a candidate who had opted for the post of Sorting Assistant and has been selected having 68



marks, the same cannot be a ground to plead discrimination once the instructions are clear.

Consequently, no case is made out for interference.

Petition is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.09.2019
Transmission Date	

