

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4401 of 2019

=====

Manoj Kumar Singh Son of Ramashray Singh Resident of Village - Yogini,
Post Office, Koath, Police Station Dawath, District Rohtas.

... .. Petitioner

Versus

1. The Union of India through the Chief Post Master General, Bihar, Patna
2. The Chief Post Master General Bihar, Patna, G.O.O., Patna
3. The Superintendent of Post Office, Bhojpur Division, Arrah, District Bhojpur
4. The Assistant Superintendent of Post Office Buxar, District Buxar
5. Dinesh Kumar Son of Sri Sidhi Prasad, resident of Village - Birchi, P.O. Barauni Via Mashaurhi, P.S. - Dhanarua, District - Patna

... .. Respondents

=====

Appearance :

For the Petitioner : Mr. Anil Kumar Dwivedi, Advocate

For the Respondent/UOI : Mr. Satyavrat Verma, CGC

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 28-11-2019

Heard learned counsel for the petitioner and
learned counsel appearing for respondent nos. 1 to 4.

2. The present writ petition has been filed by the petitioner challenging the order dated 27.02.2018 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'the Tribunal') in O.A. No. 050/000563/2014 whereby the the original application filed by the petitioner wherein he had



prayed for a direction upon the respondent-authorities to consider his candidature for appointment as Extra Departmental Delivery Mail Carrier (for short 'EDDMC') has been dismissed.

3. The short facts of the case are that an advertisement dated 06.06.2012 was issued by the Assistant Superintendent Posts, Buxar for appointment on the post of Gramin Dak Sewak Mail Delivery/Mail Carrier, Jamauli, B.O. for handicapped candidates and the last date for submission of the applications was 06.07.2012.

4. The application of the petitioner was received by the respondents after expiry of last date of submitting the application. Accordingly, his application was rejected. Being aggrieved by the rejection of his application, the petitioner preferred an original application vide O.A. No. 782 of 2012 before the Tribunal for a direction upon the respondents to accept his application. The Tribunal allowed the original application filed by the petitioner and directed the petitioner to send his application by way of registered post within 10 days from the date of the order and further directed the respondents to allow the petitioner to appear in the test along with other candidates. The petitioner complied with the direction of the



Tribunal. Accordingly, he along with other candidates appeared in the examination conducted by the respondents and was declared successful. He was placed at serial no. 6 in the merit list dated 06.07.2012 as he had secured 73% marks as per calculation done by the respondents.

5. In the merit list, one Rahul Kumar was placed at Serial No. 1 as he had secured 88.14% marks and one Ajit Kumar was placed at Serial No. 2 as he had secured 85.89% marks. However, after verification of the certificates of the candidates placed at Serial Nos. 1 and 2 in the merit list, it was found that they had not submitted their certificate of handicap. Thus, they were not selected for the said post. One Dinesh Kumar (respondent no. 5) who was placed at Serial No. 3 as he had secured 83.55% marks was selected for the said post upon rejection of candidature of the candidates at Serial Nos. 1 and 2 and after proper verification of the certificates of respondent no. 5, the letter of appointment was issued to him on 21.11.2013.

6. Being aggrieved by the appointment of respondent no. 5, the petitioner filed an original application vide O.A. No. 050/000563/2014 before the Tribunal in the year 2014 wherein he had prayed for a direction to the respondents



to appoint him as EDD MC Manoharpur in Buxar District pleading therein that he had secured the highest marks amongst the candidates, but was not appointed and respondent no. 5 was appointed after making fabrication in the marksheet.

7. After hearing the parties, the Tribunal dismissed the aforesaid original application filed by the petitioner vide impugned order dated 27.02.2018.

8. Challenging the impugned order dated 27.02.2018, Mr. Anil Kumar Dwivedi, learned counsel appearing for the petitioner submitted that the Tribunal failed to consider the case of the petitioner properly. According to him, the appointment of respondent no. 5 on the post in question is an illegal and arbitrary action of the respondents. Since the petitioner had made a specific case that the appointment of respondent no. 5 was based on fabricated marksheet, it was incumbent upon the Tribunal to have verified the marksheet of the respondent no. 5 before passing the order impugned. He contended that the Tribunal erred in law by not calling for the marksheet of the respondent no. 5 and mechanically dismissing the case of the petitioner on the ground of delay.

9. *Per contra*, learned counsel appearing for respondent nos. 1 to 4 has submitted that there is no error in the



order impugned passed by the Tribunal. He has contended that the petitioner had secured 73% marks in Madhyama Examination whereas the respondent no. 5 had obtained 83.55% marks in the said examination. According to him, since the respondents had secured more marks than the petitioner, he has rightly been appointed on the said post.

10. Having heard learned counsel for the parties and perused the materials on record, we find that save and except wild allegation and hypothetical presumption of the petitioner, there is no material on the basis of which it can be said that the appointment of respondent no. 5 is based on forged certificate. That apart, the name of respondent no.5 stands at Serial No. 3 in the merit list whereas the name of the petitioner stands at Serial No.6 in the merit list. Hence, after the respondent no. 5 there are two more persons in the merit list, who had secured more marks than the petitioner. The Tribunal has noticed the aforesaid facts in its impugned order and has also noticed that other two persons, who had obtained higher marks than the petitioner were not impleaded as party.

11. On the facts and in the circumstances of the case, we are of the opinion that the Tribunal has rightly dismissed the original application filed by the petitioner. A



legally appointed person against a public post cannot be held to be a person occupying the post on the strength of forged certificate in absence of any legal proof in this regard.

12. The writ petition being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2019
Transmission Date	NA

