

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6831 of 2018

1. The Union Of India through the Secretary-cum-D. G., Department of Posts, Dak Bhawan, New Delhi.
2. The Postmaster General, Northern Region, Muzaffarpur.
3. The Asstt. Director Staff, O/o the Postmaster General, Northern Region, Muzaffarpur.
4. The Superintendent of Post Offices, West Champaran Division, Bettiah.

... .. Petitioner/s

Versus

Monu Alam son of Md. Hamid, Resident of Village and P.O.- Barni, P.S.- Dhanarua, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satyabrat Verma, CGC

For the Respondent/s : Mr. Jayant Kumar Karn, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 10-01-2020

Heard Mr. Satyabrat Verma, learned counsel for the petitioners and Mr. Jayant Kumar Karn, learned counsel for the respondent.

2. By way of present writ petition, the petitioners have prayed for quashing the order dated 23.11.2017 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'the Tribunal') in O.A. No. 764 of 2015 whereby the original application filed by the respondent has been allowed in terms of the order dated 19.09.2017 passed in O.A. No. 050/00070/2016 and the Chief Postmaster General, Bihar Circle, Patna and the



Senior Superintendent of Post Offices, West Champaran Division, Bettiah have been directed to consider the candidature of the respondent for selection for appointment to the post of Postal Assistant.

3. The brief facts of the case are that the Chief Postmaster General, Bihar Circle issued an advertisement on 11.08.2012 for filling up vacancies for various posts including Postal Assistant and Sorting Assistant in pursuance of the Department of Posts (Postal Assistants and Sorting Assistants) (Group C non-Gazetted) Recruitment Rules, 2011 (for short 'Rule 2011'). Against the aforesaid advertisement, the respondent applied for the post of Postal Assistant in West Champaran Division. He came out successful in the examination against the vacancies notified in general category quota of West Champaran Division, Bettiah. He was asked to appear with all original certificates and documents for verification in pursuance of which he appeared on 15.01.2014. He furnished his certificates to the office of the Superintendent of Post Offices. Upon verification, it was found that he had passed Upshastri (Intermediate) examination from Kameshwar Singh Darbhanga Sanskrit University in the year 2009.



4. After examination of the original certificates of the respondents, his provisional selection to the post of Postal Assistant cadre in West Champaran Division under direct recruitment quota for the vacancy year 2011 and 2012 was rejected vide order dated 05.06.2015 on the ground that the degree of Upshastri is equivalent to Intermediate examination but neither in the Rule 2011 nor in the advertisement the equivalence of Intermediate was required for consideration for the post of Postal Assistant or Sorting Assistant.

5. Being aggrieved by the order dated 05.06.2015 whereby the provisional selection of the respondent was rejected, the respondent filed original application vide O.A. No. 764 of 2015 before the Tribunal, which was allowed vide impugned order dated 23.11.2017.

6. Feeling aggrieved by the aforesaid order dated 23.11.2017, the petitioners have filed the instant writ petition.

7. Mr. Satyabrata Verma, learned counsel for the petitioners submitted that the Tribunal has relied on the judgment passed by the Supreme Court in ***Prakash Chand Meena & Ors. Vs. State of Rajasthan & Ors.***, since reported in ***(2015) 8 SCC 484*** for allowing the case of the respondents. He submitted that a bare reading of the said judgment would reveal that the petitioners



had rightly rejected the provisional selection of the respondent. He submitted that the ratio laid down by the Supreme Court in ***Prakash Chand Meena*** (Supra) is that in selection process the authorities cannot be permitted to depart from qualifications stipulated in advertisement and existing Rules. He contended that in the Rule 2011 as well as in the advertisement it was not prescribed that the equivalent qualification with respect to 12th class would also be considered. Hence, reliance on the said judgment was totally misconceived and wrong. He submitted that the Tribunal has failed to appreciate that the respondent did not possess the necessary qualification for selection to the post of Postal Assistant. It also failed to appreciate that the advertisement was issued under Rule 2011, which does not contain any criteria that equivalent of 12th examination shall be considered for such selection.

8. On the contrary, Mr. Jayant Kumar Karn, learned counsel appearing for the respondent submitted that Upshastri examination conducted by Kameshwar Singh Darbhanga Sanskrit University is equivalent to Intermediate 10+2 and large number of persons are employed in the Department of Post on the basis of certificate issued by the Kameshwar Singh Darbhanga Sanskrit University. He contended that vide office memorandum dated 4th



May, 1998, the Government of India Ministry of Personnel, Public Grievances and Pensions have decided to recognize the Upshastri qualification from Kameshwar Singh Darbhanga Sanskrit University as equivalent to educational qualification in the general set up education for the purpose of employment under the Central Government. He submitted that while allowing the original application, the Tribunal has placed reliance on its earlier order dated 19.09.2017 passed in O.A. No. 050/00070/2016 in the matter of one Punendra Chauhan. In that case also, the Tribunal had placed reliance on the judgment of the Supreme Court in ***Prakash Chand Meena*** (Supra), which is equally applicable to the case of the respondent. He contended that from perusal of the order passed in the case of Punendra Chauhan, it would appear that the petitioners had issued guidelines according to which one of the conditions was that the candidate had to indicate the equivalent examination marks as per the mark-sheet to be filled up in the application form up to the two decimal points. He contended that under the circumstances when the petitioners had entertained the application of the respondent and allowed him to appear in the examination and he also successfully passed the examination, they cannot say that the respondent is not eligible to be appointed as he holds an equivalent certificate of Upshastri.



9. We have heard the learned counsel for the parties and carefully perused the record.

10. The facts of the case are not in dispute. Rule 2011 prescribes the required qualification for direct recruitment of Postal Assistant as follows :-

“10+2 standard or 12th class pass with at least 60% marks and above, from any recognized University/Board of School Education, Board of Secondary Education with English as a compulsory subject. (Excluding vocational streams) for OC candidates, 55% and above for other backward classes and 45% and above for Scheduled Caste/Scheduled Tribes.

11. As per advertisement, notification for appointment to the post of Postal Assistant also the candidate was required to have qualification of 10+2 standard or 12th class pass with at least 60% marks and above, from any recognized University/Board of School Education, Board of Secondary Education with English as a compulsory subject (excluding vocational streams).

12. The case of the petitioners before the Tribunal was that prior to the issue of Rule 2011, equivalent qualifications of Intermediate was also considered to be suitable for the post, but since the issue of Rule 2011, the recognition of equivalent qualification of Intermediate was removed from the eligibility



condition and, therefore, in the notification of the vacancy of the post, no equivalent educational qualification has been made to meet the eligibility condition.

13. Admittedly, the respondent has acquired qualification of Upshastri, which is equivalent to Intermediate examination. It is true that vide office memorandum dated 4th May, 19098 the Government of India, Ministry of Personnel, Public Grievances and Pensions have decided to recognize the Upshastri qualification from Kameshwar Singh Darbhanga Sanskrit University as equivalent to educational qualification in general set up of education for the purpose of employment under the Central Government. However, only because the office memorandum, as stated above, has been issued would not confer any right upon the respondent to be appointed against the post contrary to the Rules and the terms of the advertisement.

14. The Tribunal has relied on the judgment of the Supreme Court in ***Prakash Chand Meena*** (Supra) while allowing the case of Punendra Chauhan and has allowed the case of the respondent treating the same to be identical to that of Punendra Chauhan.

15. In ***Prakash Chand Meena*** (Supra), the Supreme Court has held that the recruitment process must be completed as



per the terms and conditions in the advertisement and as per the rules existing when the recruitment process began.

16. Apparently, the Tribunal has not appreciated the ratio laid down by the Supreme Court in the correct perspective. It has rightly been contended by the learned counsel for the petitioners that a reading of the said judgment would make it clear that the same endorses the stand taken by the petitioners. It clearly stipulates that the authorities cannot depart from the qualifications stipulated in advertisement and the existing Rules.

17. As noted above, in the present case, in the Rule 2011 as well as in the advertisement it has nowhere been prescribed that equivalent qualification with respect to 12th Class will also be considered.

18. Hence, reliance placed by the Tribunal on the judgment in ***Prakash Chand Meena*** (Supra) for allowing the case of the respondent is totally misconceived.

19. We are of the opinion that the petitioners had rightly rejected the provisional selection of the respondent as he did not possess the required qualification for selection to the post of Postal Assistant.

20. In view of the discussions made above, the order impugned dated 23.11.2017 passed by the Tribunal in O.A. No.



764 of 2015 is hereby set aside. The writ petition stands allowed.
However, there shall be no order as to costs.

(Ashwani Kumar Singh, J)

(Partha Sarthy, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16-01-2020
Transmission Date	

