

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2684 of 2022

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Kumari Veena, W/o Sri Shankar Kumar, Resident of Village-Muradpur
Dullhar, P.O.-Bhikhanpur, P.S.-Ahiyarpur, District-Muzaffarpur.

... .. **Petitioner/s**

Versus

1. The Union of India, through the Secretary Cum D.G., Department of Posts, Dak Bhawan, New Delhi. 110001.
2. The Chief Post Master General, Bihar Circle, Patna. 800001.
3. The Director of Postal Services,(HQ) O/o the CPMG, Patna. 800001.
4. The Assistant Director, Recruitment, O/o The Chief Postmaster General, Bihar Circle, Patna.800001.
5. The Postmaster General, Northern Region, Muzaffarpur. 842002.
6. The Asstt. Director-1, O/o The The PMG (N), Muzaffarpur. 842002.
7. The Superintendent of Post Offices, Darbhanga Division, Darbhanga. 846005.

... .. **Respondent/s**

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Appearance :

For the Petitioner/s : Mr. Jayant Kumar Karan, Advocate
For the Respondent/s : Mrs. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 17-08-2022

The present writ petition has been preferred against the order dated 29.01.2019 passed by the Central Administrative Tribunal, Patna Bench, Patna (*henceforth for the short* ‘the Tribunal’) in O.A./050/00185/2016 by which the O.A. preferred by the petitioner herein was dismissed.

2. The matrix of facts giving rise to the present writ petition is/are as follows:



3. Altogether 202 posts of Postal Assistant/ Sorting Assistant were advertised by the Postal Department in August, 2009. The petitioner was candidate for the Darbhanga Region. On 16.11.2010, the result was declared and the petitioner claims to be in the wait list. On 06.08.2013, she preferred RTI application whereafter she got information that one of the successful candidate, Akshat Anand did not join the post. Accordingly, she approached 'the Tribunal' vide O.A. No.706/2013 which was disposed of on 1st of May, 2014 with a direction to the respondents to examine her claim and if it is found to be similar to that of O.A. No.768/2011 (Saddam Hussain), similar relief may be considered in her case. 'The Tribunal' had further made it clear that it has not expressed any opinion on the merit of the case.

4. Accordingly, on 30.03.2015 the Chief Postmaster General, Bihar Circle, Patna took up the matter and vide reasoned order, it rejected the claim of the petitioner and it is necessary to incorporate the said order dated 30.03.2015.

Department of Posts, India
Office of the Chief Postmaster General, Bihar Circle, Patna -800001

No.R&E-661/2013/CC

Dated at Patna the 30.03.2015

ORDER

This is regarding consideration of case of Ms. Kumari Veena W/o Shri Shankar Kumar for her appointment to the cadre of Postal Assistant in compliance of order dated 01.05.2014 passed by the Hon'ble CAT, Patna Bench, Patna in MA No. 207/2014(O.A. No. 706/2013 filed by Ms. Kumari Veena Vrs. Union of India.



2. The case, in brief, is that 202 posts of Postal Assistant/Sorting Assistant advertised in August 2009 and Ms. Kumari Veena was also a candidate for the same from Dabhanga Division. The said candidate was appeared in Aptitude Test etc. bearing Roll No. DBN-52. The result of the Aptitude Test was declared on 16.11.2010 but the said applicant could not find place in the list of selected candidate and she was in the list of waiting candidates. All the selected candidates were informed by Supdt. of Post offices, Darbhanga Division to complete the pre-appointment formalities. On completion of the same, all the selected candidates were directed for Induction training at PTC, Darbhanga but one candidate names Shri Akshat Anand did not attend the Induction Training during the period 14.03.2011 to 30.04.2011 and again 12.09.2011 to 05.11.2011 and 14.11.2011 to 07.01.2012. Later on; said Shri Anand withdrew his candidature vide his application dated 09.04.2012 and requested to return his original certificates. Ms. Kumari Veena was empanelled at the top of waiting list and she submitted her reinterpretation 26.08.2013 for her appointment after expiry of about 3 Years. According to the rules/instructions, the request of the petitioner was not acceded to by the competent authority. Being aggrieved with the decision, the applicant filed an O.A: No. 706/2013 as well as M.A. No. 207/2014.

3. The petitioner in her O.A. has pleaded that she was at 1st position in the list of OC category and she should have been offered the vacant post due to non-joining of said Shri Akshat Anand but the same was not considered by the respondents.

4. The Hon'ble CAT, Patna Bench in its order dated 01.05.2014 in M.A. No. 207/2014 filed by the applicant has directed the respondents to examine the case of the applicant and if it is found to be similar to that in O.A. 761/2011 (Case of Saddam Hussain), similar relief may be considered in case of applicant also. The Hon'ble CAT has not expressed any opinion on the merit of the case.

5. Keeping in view the order passed by Hon'ble CAT, Patna Bench I have gone through the O.A. and case of the applicant, relevant records and rules/instructions of the department and found that:

- (i) The plea given by the applicant is not correct as all the selected candidates accepted the selection letter and submitted their documents for appointment to the post of Postal Assistant. They were directed to attend Induction Training but Shri Akshat Anand as one selected candidate did not attend the induction training from 14.03.2011 to 30.04.2011 and again he was directed for training from 12.09.2011 to 05.11.2011 and 14.11.2011 to 07.01.2012 but



he neither turn up for the training nor showed his inability for attending the said training and lastly he withdrew his candidature on 09.04.2012 i.e. after one year four months and twenty five days.

(ii) According to the instructions contained in DTE's letter No. 51-2/2005-SPB-I dated 0.11.2004 a wait listed candidate may be considered only in the case selected candidates do not respond or refuse to accept the offer and also this list will be valid for six month only from the date of declaration of result and will be strictly operated against drop out from selected list and not against any other vacancy for in other contingencies.

(iii) In the instant case, the result was declared on 16.11.2010 and wait list, if any, was valid up to 15.05.2011. The selected candidate Shri Akshat Anand accepted the offer and submitted their documents related to the appointment and were directed for Induction training but said Sri Akshat Anand did not turn up for the same. Lastly, he withdrew his candidature after one year four months and twenty five days vide his application dated 09.04.2012. Hence, the question for offer the post to candidates from wait list does not arise in view of DTE's letter No. 51-2/2005-SPB-1 dated 10.11.2004.

(iv) The instant case is not similar to the case of Shri Saddam Hussain (O.A. No.761/2011). In case of Shri Saddam Hussain, the selected candidate name Ms. Khushboo Kumari was directed to submit her documents by the Supdt. of Post offices, Begusarai Division and in due course, the educational certificate produced by Mis. Khushboo Kumari was found not fit for the post according to Recruitment Rules as she passed Intermediate Exam with Vocational Course. Later on said Ms. Khushboo Kumari filed an O.A. No. 434/2011 for redressal of her grievance and the said O.A. was dismissed by the Hon'ble CAT. Meantime, Shri Saddam Hussain' had also requested for his selection/appointment for the post of Postal Asstt. and also filed and O.A. No. 511/2011 which was disposed of by the Hon'ble CAT, Patna Bench on 11.08.2011 as well as this office letter No: R&E-291/2011/CC dated 29.09.2011. Being aggrieved, the Shri Hussain again filed and O.A. No. 761/2011 before CAT, Patna Bench which was decided on 12.09.2013 in favour of Shri Saddam Hussain. However, the department is filing a writ petition contesting the order before the Hon'bie High Court.

To conclude, Shri Akshat Anand withdrew his candidature after gap of one year four months twenty five days and as per directorate instruction contained in letter No. 51-2/2005-SPB-1



dated 10.11.2004 wait list is valid only for six months from the date of declaration of the result. Thus the wait list could not be operated.

Based on the above discussion and instructions of the Government of India in this regard the case of Kumari Veena is not covered under the preview of Directorate's instruction.

Hence, I do not find any merit in the instant case and the case is disposed of accordingly.

(A.S.Prasad)
Chief Postmaster General,
Bihar Circle, Patna-800001

Ms. Kumari Veena
W/o Shri Shankar Kumar
Vill -Muradpur Dullah
P.O,-Bhikhanpur
Dist-Muzaffarpur.

Copy for information to:

1. The Registrar, Hon'ble CAT, Patna Bench, Patna.
2. The Sr. Standing Counsel, CAT, Patna Bench, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur w.r.t his letter No.Staff/CC/Muz/118/13 dated 16.05.2014.
4. The Supdt. Of Post offices, Darbhanga letter No.DR-28/Ch-IV dated 28.05.2014.

5. Aggrieved by the said order passed by the respondent-authorities, the petitioner preferred O.A./ 050/ 00185/ 2016. The same was taken up on 29.01.2019 and was dismissed holding as under:

“3 we have gone through the pleadings and heard the parties. The order of the CPMG (impugned order, Refer Annex A/8) issued following our earlier directions in this matter is, prima facie, a well-reasoned and speaking order. It clearly shows why the respondent could not agree with the request of the applicant. Besides quoting the relevant Rule (quoted above) it also gives reasons to



distinguish the facts of this case with those in the case of Saddam Hussain (OA 761/2011 decided on 12th September 2013). We have again gone through our decision in that case and we find that the distinction made in the impugned order is correct. In that case the selection of Khushboo Kumari (the originally selected candidate) was cancelled within six months of the publication of result. The decision also states: "Had cancellation of the selected candidate taken place six months after issue of appointment' letter, certainly the applicant would have been non-suited". In the instant case, the cancellation has happened much after that period. Though the applicant now claims that it should have been cancelled much before it was actually done the fact remains that it did not happen that way. The authorities did give chances to the original selectee to appear for training and there is nothing on record to show that they did so mala fide. The vacancy of Kaushal Kumar also, if and when it arises (or has arisen) would still not give any chance to the applicant since, it would be much after six months from the date of publication of results. The non consideration of the wait-listed candidate, under these circumstances is, not wrong.

4. The OA, therefore, lacks merit and is dismissed. No orders as to costs.

6. Still aggrieved, the present writ petition was preferred by her. The case of the petitioner is that she being at wait list no.1 in terms of the resolution of the respondents, once the



selected candidate failed to join the post those in the wait list should have been considered and her bonafide claim was not considered by 'the Tribunal' while rejecting her application.

7. The respondents have appeared and contested the case. According to them, the 10.11.2009 Department's instruction/Letter No.51-2/2005-SPB-I is very clear inasmuch as:

(i) the wait list candidate can be considered only when the selected candidate do not respond or refuse to accept the offer;

(ii) the said list is valid only up to 6 months from the date of declaration of result and cannot be considered thereafter.

8. Further case of the respondents is/are that the said Akshat Anand, selected candidate submitted his documents for appointment to the post of Postal Assistant but did not attend the induction training from 14.03.2011 to 30.04.2011. He was further directed to join the training from 12.09.2011 to 05.11.2011 which he again did not attend and lastly he did not turn up in the training between 14.11.2011 to 07.01.2012. He finally withdrew his candidature on 09.04.2012 i.e. after 01 year 04 months and 25 days.



9. Thus, as per aforesaid DTE's letter/instruction, a wait list candidate can be considered in case of refusal of the selected candidate only up to six months from the date of declaration of result and not any further.

10. The respondents submitted that it is an admitted position that the result was declared on 16.11.2010 and the wait list was valid only up to 15.05.2011. The selected candidate finally withdrew his candidature on 09.04.2012 and as such the same cannot be extended to the petitioner herein.

11. The next contention of the respondent is that the case of the petitioner is not similarly situated to that of Saddam Hussain (O.A. No.761/2011) in which the selected candidate Khusboo Kumari was not found fit for the post according to the Recruitment Rules and the O.A. preferred by her was dismissed. In the meantime, Saddam Hussain had preferred O.A. No.761/2011 which was decided on 12.09.2012 in his favour. Even that order has been challenged by the Department by filing writ petition.

12. Heard counsel for the parties.

13. A perusal of the reasoned order dated 30.03.2015 shows that the result was declared on 16.11.2010 and as such the wait list panel being valid for only six months, the same came to an end on 15.05.2011.



14. The selected candidate, Akshat Anand accepted the offer of appointment and submitted his original documents. However, he did not attend the induction training organized by the respondents and it was only on 09.04.2012 i.e. after 01 year 04 months and 25 days that he withdrew his candidature with a request to return his documents.

15. As the said withdrawal was much beyond the six months validity period for a wait list candidate, there was no question of considering the candidature of the petitioner herein in the light of DTE's Letter No.51-2/2005-SPB-I dated 10.11.2014 and it is important to incorporate the relevant para of the said circular.

"[14] Waiting list:

A waiting list shall be prepared only to the extent of vacancies announced in the relevant category. The candidates of the waiting list may be, considered only in case the selected candidates do not respond or refuse to accept the offer. The name of candidates in the waiting list will not be announced. This list will be current for six months only from the date of declaration of result and will be strictly operated against drop-outs from select list and not against any other vacancy or in any other contingency."

16. Taking into account the aforesaid facts, it is clear that the post which came to be vacant due to the withdrawal of the candidature by Akshat Anand after more than one year could not have been extended to the petitioner herein, as the wait list



panel lapsed after a period of six months on 15.05.2011. Thus in the opinion of this Court the petitioner has not made out a case.

17. The writ petition accordingly fails and is hereby dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2022
Transmission Date	NA

