

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14477 of 2022

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Ram Suresh Pathak Son of Shri Budhdeo Pathak, Resident of Village and
P.O.-Lagunia Raghukanth Via Kashipur, District-Samastpur.

... .. Petitioner/s

Versus

1. The Union of India through the Director General cum Secretary, Department of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Bihar Circle Patna.
3. The Post Master General, Northern Region, Muzaffarpur
4. The Superintendent of Post Offices, Samastipur Division, Samastipur
5. The Post Master, Samastipur H.O.
6. Gaurav Suman Son of Sri Rakesh Kumar Yadav Working as GDS Packer/MC Samastipur H.O.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Jha, Advocate
For the Respondent/s : Mr. Tuhin Shankar, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 03-11-2022

Heard learned counsels for the parties.

2. In the instant petition petitioner has assailed the order of the Tribunal dated 16.11.2021 passed in O.A. No. 050/00653/2016.

3. Petitioner and 6th Respondent- Gaurav Suman were candidates for recruitment to the post of GDS Packer/ MC, Samastipur. Petitioner was unsuccessful candidate. On the other hand, 6th Respondent- Gaurav Suman



was successful candidate and he has been appointed on 07.03.2015. Feeling aggrieved by the non-selection of the petitioner and selection of 6th Respondent- Gaurav Suman, petitioner invoked remedy under Section 19 of the Administrative Tribunal Act, 1985 in filing Original Application. The Tribunal rejected petitioner's Original Application on 16.11.2021. Hence, the present petition.

4. Learned counsel for the petitioner vehemently contended that 6th Respondent- Gaurav Suman has not been appointed by the competent authority. On the other hand, he has been appointed by 5th Respondent- Postmaster, Samastipur, H.O. In support of the aforesaid contentions, he relied on schedule of recruiting authorities. In so far as Gramin Dak Sevak Mail Packer, the competent authority is Deputy Presidency Postmaster: *Gazetted Postmaster including Gazetted Sub Postmaster in charge of Town Post Office, Postmaster in Higher or Lower Selection Grade (in own office) except a Postmaster in charge of a Town Sub-Office, Inspector of Post Offices/ Assistant Superintendent of Post Offices (in all other office)*. The aforesaid contention has not been raised before the Central Administrative Tribunal as is evident from the Original



Application. Petitioner has also not disputed that he has raised the competency in appointing 6th Respondent- Gaurav Suman.

5. 6th Respondent- Gaurav Suman has been appointed to the post of GDS Packer on 07.03.2015 and he is working for the last seven years. It is not appropriate to displace him when the petitioner has not taken the contention before the Tribunal that order of appointment issued in favour of 6th Respondent- Gaurav Suman was by an incompetent authority. He is relying on the information given by the Postal Department under RTI. Since the petitioner has not taken aforesaid contention before the Tribunal, it is not appropriate for this Court to entertain at this belated stage and displace 6th Respondent- Gaurav Suman. Moreover, it is to be noted that petitioner is unsuccessful candidate, he must have questioned the validity of the advertisement. On the other hand, he has participated in the process of selection to the post of GDS Packer. Apex Court in the case of *Madan Lal Vs. J & K & Others* reported in (1995) 3 SCC 486 held that if a candidate participates in the process of selection and if he is unsuccessful, he cannot question the procedure adopted by the Selecting Authority. On this count, petitioner has not made out a case.



6. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.11.2022
Transmission Date	

