

GAHC010005202014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/390/2014

JONAKI DAS

D/O- DHIREN DAS @ DHIRENDRA NATH DAS, VILL.- BHULUKADOBA,
P.O.- BHULUKADUBA VIA SORBHOG, DIST. - BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA and 7 ORS

REP. BY THE SECY. TO THE UNION OF INDIA, MINISTRY OF
COMMUNICATIONS AND POSTS, NEW DELHI- 110001.

2:THE DIRECTOR GENERAL

DEPTT. OF POSTS

DAK BHAWAN

SANSAD MARG

NEW DELHI- 110001.

3:THE CENTRAL POST MASTER GENERAL

ASSAM CIRCLE

DEPTT. OF POST

MEGHDOOT BAHWAN

GHY- 1.

4:THE SUPDT. OF POSTS

NALBARI-BARPETA DIVISION

P.O. and DIST.- NALBARI

ASSAM

PIN- 781335.

5:THE INSPECTOR OF POSTS

BARPETA SUB-DIVISION

P.O. and DIST.- BARPETA

ASSAM

PIN- 781301.

6:THE SUB-POST MASTER
SORBHOG SUB POST OFFICE
P.O.- SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317.

7:THE BRANCH POST MASTER
BHULUKADOBA BRANCH POST OFFICE
P.O.- BHULUKADOBA VIA SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317.

8:AUNPAM NATH
S/O- SRI MONOMOCHAN NATH
R/O VILL.- DAHALAPARA
P.O.- BHULUKADOBA VIA SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317

Advocate for the Petitioner : MS.C DAS

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 18.03.2024

Heard Mr. K. R. Patgiri, learned counsel for the petitioner. However, none appears for the respondents, on call.

2. The petitioner by way of instituting the present proceedings; has presented a challenge to the selection of the respondent No. 8, vide order, dated 13.08.2012, against the post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office under Sorbhog Sub Post Office. The petitioner has also challenged the further

communication, dated 13.12.2013, by which a temporary arrangement made for operation of the post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office, involving the petitioner, herein, was cancelled.

3. The father of the petitioner Dhirendra Nath Das was serving as a Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office and was being paid, time-related continuity allowance. The petitioner was engaged against the works being carried-out by her father, during his absence on medical leave. The father of the petitioner retired on 30.09.2012 and accordingly, the respondent No. 5, vide communication, dated 19.01.2013, allowed the petitioner, herein, to function as the Gramin Dak Seva Mail Carrier (GDSMC) at Bhulukadoba Branch Post Office, on a temporary basis for a period of 90 days. Thereafter, the said period of engagement of the petitioner was extended. The respondent authorities vide an advertisement, dated 27.04.2013, invited applications for the post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office.

4. The petitioner, accordingly, submitted her application and appeared for the interview process and the petitioner holding the said post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office; was confident that she would be allowed to continue to function as the GDS(MC) at Bhalukdhara Branch Office. However, the respondent authorities vide order, dated 13.08.2013, appointed the respondent No. 8 against the said post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office.

5. It is the contention of the petitioner that she had a better preferential claim for the post in question, on account of the fact that her father had served as a Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office against the same

very post and the petitioner was also working in such capacity on temporary basis w.e.f. 19.01.2013. The petitioner has further contended that the respondent No. 8 not being a resident of the village wherein the said Branch Office of the Post Office concerned is situated and even after his appointment; he having not shifted to the village wherein, the said Branch Office is so situated; the appointment of the petitioner being in violation of the norms governing the service in question, cannot be sustained and requires to be interfered with.

6. It is the further contention of the petitioner that in pursuance of the communication, dated 13.08.2013, appointing the respondent No. 8 as Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office, he having not joined his services even after lapse of a month after issuance of the said order of appointment; his services should have been deemed to have been terminated. However, the respondent authorities permitted the respondent No. 8 to join his services as Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office in terms of the order of his appointment, dated 13.08.2013, w.e.f. 13.12.2013, i.e. much after the prescribed period of 1(one) month mandated for such joining.

7. The official respondents by way of filing an affidavit-in-opposition in the matter, have contended that the very application submitted by the petitioner for recruitment to the post in question, was defective in-as-much as she had not disclosed all the requisite particulars as mandated to be disclosed in the said application.

8. It is further submitted that the respondent No. 8 was so selected basing on the merit as obtained by him in the selection process. The selection, it was contended, was so based on the marks scored by the candidates in the HSLC examination and the respondent No. 8 having secured 54 marks in the said examination; being the highest

scorer amongst the candidates appearing, he was selected for the said post. The writ petitioner, although having the knowledge that the selection would be made on the basis of the marks scored by the candidate in the HSLC examination, had not furnished her marksheet of the said HSLC examination and accordingly, her case could not be favourably considered.

9. With regard to the non-joining of the respondent No. 8 within a period of one month from the issue of his engagement order; it was clarified that the respondent No. 8 on receipt of his appointment order; had submitted an application along with the medical certificates praying for extension of the time to join his services which was duly considered by the authorities and his such prayer was allowed. It was further contended that the respondent No. 8 was a resident within the post village of Bhulukadoba Branch Post Office in-as-much as he is a resident of Dhalapara which falls under the delivery jurisdiction of Bhulukadoba Branch Post Office.

10. The respondent No. 8 has also filed an affidavit in the matter and has taken a stand similar to the one taken by the official respondents.

11. I have heard the learned counsel for the petitioner and perused the pleadings brought on record by the parties to the proceeding.

12. The post, in question, is covered by the provisions of the Gramin Dak Seva(Conduct and Engagement) Rules, 2011. In terms of the provisions of the said Rules of 2011; the candidate selected for the said post must start to reside within the delivery jurisdiction of the post office concerned and failure to do so; shall render the appointment liable to be terminated.

13. The advertisement as issued by the respondent authorities for the post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office amongst other qualifications mandated the candidate desirous to apply for the post to have passed the HSLC examination along with the residential requirement as mentioned hereinabove.

14. The petitioner applied for the said post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office and on perusal of the application as preferred by the petitioner, it is revealed that she has neither disclosed the percentage of marks secured by her in the HSLC examination nor the educational certificate pertaining to such examination was enclosed with her application.

15. The petitioner not having brought on record that she had the minimum requisite qualifications for being appointed to the post in question and it being the categorical statement of the petitioner; that although she appeared in the HSLC examination in the year 2002, she could not clear the said examination. The advertisement, in question, was issued on 27.04.2013, and as on that date; the petitioner had not cleared her HSLC examination and/or any equivalent examination. The petitioner relies upon the certificate issued by the Krishna Kanta Handique State Open University in the Bachelor Preparatory Programme undergone by her. On perusal of the said marksheet, it is seen that the same was declared on 01.07.2013, i.e. much after the date of issuance of the advertisement in question.

16. Accordingly, it is to be held that the petitioner did not possess the minimum requisite qualification for appointment against the said post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office.

17. In view of the said position; the petitioner not being eligible to have her case considered in pursuance to the advertisement, dated 27.04.2013, non-engagement of the petitioner against the post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office, cannot be held to have caused any prejudice to her.

18. The petitioner has contended that the respondent No. 8 not being a resident of the village wherein, the said Post Office is so located and he being a resident of Dhalapara village did not fulfill the condition with regard to the residency as mentioned in the advertisement and accordingly, was not entitled to be appointed against the post in question. It is to be noted that the qualification relating to residency as mandated in the said advertisement dated 27.04.2013, requires a candidate to be a resident of the post village and not of a revenue village. This when examined in the light of the provisions of Rule 3(a) of the said Rules of 2011, it is clear that a candidate must be a resident of the post village i.e. within the delivery jurisdiction of the post office concerned. The respondents in their affidavit-in-opposition have categorically stated that the village wherein the respondent No. 8 resides i.e. Dhalapara is within the delivery jurisdiction of the Bhulukadoba Branch Post Office and as such, the respondent No. 8 is to be considered to be a resident within the post village. The respondent No. 8, accordingly, is held to have satisfied the requirement pertaining to his residence as mandated in the Advertisement.

19. As regards the contention of the petitioner pertaining to the delay occasioning on the part of the respondent No. 8 in joining his services after issuance of the order of his appointment, dated 13.08.2013; it is seen that the respondent No. 8 had duly intimated the authorities about his inability to join his services on account of the ailment suffered by him and as such, the delay of joining of the respondent No. 8 having been condoned by the respondent authorities and thereafter, he being

permitted to discharge his duties w.e.f. 13.12.2013; no grievance can be raised in this connection by the petitioner.

20. In view of the above position; the petitioner being held to be not eligible to apply for the said post of Gramin Dak Seva Mail Carrier(GDSMC) at Bhulukadoba Branch Post Office, in pursuance to the advertisement, dated 27.04.2013, and the appointment of respondent No. 8 being held to be not vitiated on any said count; the contentions raised by the petitioner in this writ petition does not merit acceptance.

21. The writ petition is accordingly found to be devoid of merit and the same stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant