
(2010) 12 AHC CK 0175

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 28260 of 2003

Union of India (UOI)
and Others

APPELLANT

Vs

Rama Shanker Bajpai
and Others

RESPONDENT

Date of Decision: Dec. 7, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2011) 2 ADJ 444 : (2011) 128 FLR 976

Hon'ble Judges: S.P. Mehrotra, J; Pankaj Mithal, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. The present Writ Petition has been filed by the Petitioners under Article 226 of the Constitution of India, inter alia, seeking quashing the Order dated 25th March, 2003 passed by the Central Administrative Tribunal (in short, "the Tribunal") in Original Application No. 837 of 2002 filed by the Respondent No. 1 (Rama Shankar Bajpai).

2. Counter Affidavit and Rejoinder Affidavit have been exchanged between the parties.

3. It appears that the Respondent No. 1 was sponsored by the Employment Exchange, Kanpur in 1997 for appointment to the post of Postal Assistant. The Respondent No. 1 (Rama Shanker Bajpai) after appearing in the Written Test as well as the Viva Voce etc. was finally selected as per the Select List dated 8.7.1997. However, while the verification of the Certificate and the Mark-Sheet submitted by the Respondent No. 1. was undertaken, it came to the knowledge of the Petitioners on the basis of report received from Usha Sanskrit Mahavidyalaya, Varanasi that the Certificate and the Mark-Sheet submitted by the Respondent No. 1 in respect of passing of Uttar Madhyama Examination in the year 1990 with Roll No. 10524 were

found to be fake.

4. Thereupon, the Petitioner No. 2 by the Order dated 9.2.1998 cancelled the selection of the Respondent No. 1 in Postal Assistant Cadre. Consequently, the Respondent No. 1 filed an Original Application before the Central Administrative Tribunal being Original Application No. 244 of 1998.

5. By the Order dated 22.2.2002, the Central Administrative Tribunal allowed the said Original Application, quashed the said Order dated 9.2.1998, and directed the Petitioner No. 2 herein to serve a Show-Cause Notice on the Respondent No. 1 within one month from the date a copy of the said Order dated 22.2.2002 was filed before the Petitioner No. 2 herein. Copy of the said Order dated 22.2.2002 passed by the Central Administrative Tribunal has been filed as Annexure 9 to the Writ Petition.

6. It was further directed that the Respondent No. 1 would submit his explanation with material within a month thereafter. The Petitioner No. 2 herein was directed to decide the matter by passing a fresh order within two months.

7. It was further observed by the Tribunal that in case it was found that the Respondent No. 1 had actually passed Uttar Madhyam Examination, 1990, as claimed by him, he would be entitled for appointment on the basis of selection without any further delay.

8. Thereafter, it appears that a Show-Cause Notice dated 8.4.2002 was issued by the Petitioner No. 2 herein to the Respondent No. 1. Copy of the Show-Cause Notice dated 8.4.2002 has been filed as Annexure 10 to the Writ Petition.

9. The Respondent No. 1 submitted his Explanation dated 10th April, 2002 before the Petitioner No. 2, copy whereof has been filed as Annexure 11 to the Writ Petition.

10. The Petitioner No. 2 herein thereafter passed an Order dated 10th June, 2002, removing the name of the Respondent No. 1 from the Select/Approved List for the post of Postal Assistant. Copy of the said Order dated 10th June, 2002 has been filed as Annexure 2 to the Writ Petition.

11. The Petitioner, thereupon, filed an Original Application before the Central Administrative Tribunal being Original Application No. 837 of 2002. The Central Administrative Tribunal by its Order dated 25.3.2003 allowed the said Original Application No. 837 of 2002 giving the following directions:

In the facts and circumstances and for the aforesaid reasons, the O.A. Is allowed. The impugned order dated 10.6.2002 is quashed. The Respondent No. 2 is directed to appoint the applicant on the post of Postal Assistant in, his Division within a period of one month from the communication of this order. Applicant shall be entitled for all consequential benefits w.e.f. 9.2.1998 or the date of Respondent No. 4 whichever is later with seniority over Respondent No. 4 except back wages. We

also provide that in case no post is presently available a supernumerary post will be created and the applicant will be appointed against that supernumerary post which will be adjusted in the first future vacancy. In the interest of justice we also restrain the Respondent No. 2 to interfere with appointment of Respondent No. 4 who shall be allowed to work on his post.

There shall be no order as to costs.

Thereafter, the Petitioners have filed the present Writ Petition seeking the reliefs as mentioned above.

12. We have heard Shri H.P. Dubey, learned Counsel for the Petitioners and Shri Manoj Kumar Singh, learned Counsel for the Respondent No. 1, and perused the record.

13. It is submitted by Shri H.P. Dubey, learned Counsel for the Petitioners that in view of the Report received from the Centre, i.e. Usha Sanskrit Mahavidyalaya, Varanasi, intimating that the Certificate and the Mark-Sheet submitted by the Respondent No. 1 with his application for appointment on the post of Postal Assistant were fake, the selection of the Respondent No. 1 was rightly cancelled as the particulars submitted by the Respondent No. 1 were found to be not correct.

14. Shri Manoj Kumar Singh, learned Counsel for the Respondent No. 1 has submitted that the Petitioners obtained Report from the concerned University, namely, Sampurnanand Sanskrit Vishwa Vidhyalaya, varanasi in the matter, and the said Report clearly shows that the Respondent No. 1 appeared in the Uttar Madhyama Examination, 1990 with Roll No. 24052 and passed in 1st Division securing 45 and 38 marks in English, and that Roll No. 10524, as mentioned in the Communication sent by the Petitioners to the concerned University, was not correct.

15. It is further submitted by Shri Manoj Kumar Singh that the marks, as mentioned in the Mark-Sheet submitted by the Petitioners with his application bearing Roll No. 10524, and the marks, as mentioned in the Mark-Sheet subsequently obtained by the Petitioners from the University bearing Roll No. 24052, were the same, and therefore, no incorrect particulars in regard to the marks obtained by the Respondent No. 1, were submitted by the Respondent No. 1.

16. We have considered the submissions made by the learned Counsel for the parties.

17. From a perusal of the record, it appears that the Petitioners made an inquiry from the Centre, i.e. Usha Sanskrit Mahavidyalaya in regard to Roll No. 10524 having appeared in Uttar Madhyama Examination, 1990, and the said Institution intimated that the said Roll Number was fake. The concerned University, namely, Sampurnanand Sanskrit Vishwa Vidhyalaya, Varanasi also intimated by its Report dated 28.10.1997/5.11.1997 that Roll No. 10524, as mentioned in the Communication sent by the Petitioners to the University, was not correct. Copy of

the said Report obtained by the Petitioners from Usha Sanskrit Mahavidyalaya, has been filed at Pages 42 and 43 of the Paper-Book of the Writ Petition. Copy of the said Report obtained by the Petitioners from the University, has been filed as Annexure 5 to the Writ Petition.

18. The Petitioners were further informed by the concerned University, namely, Sampurnanand Sanskrit Vishwa Vidhyalaya, Varanasi by the said Report dated 28.10.1997/5.11.1997 that Ramashanker Bajpai S/o Shri Ram Sumeran Bajpai (Respondent No. 1) appeared in Uttar Madhyama Examination, 1990 with Roll No. 24052, and he passed the said Examination in 1st Division securing total of 509 marks out of 600 and secured 45 and 38 marks in English. The concerned University has also issued fresh Mark-Sheet in respect of the Respondent No. 1 with Roll No. 24052 in respect of Uttar Madhyama Examination, 1990. Copy of the said Mark-Sheet has been filed as Annexure 7 to the Writ Petition.

19. The concerned University has also issued a Certificate in respect of the Respondent No. 1 having passed Uttar Madhyama Examination, 1990 with Roll No. 24052. Copy of the said Certificate has been filed as Annexure 2 to the Writ Petition.

20. A comparison of the Mark-Sheet submitted by the Respondent No. 1 with his application bearing Roll No. 10524 with the fresh Mark-Sheet issued to the Respondent No. 1 with Roll No. 24052 shows that the marks shown in both the Mark-Sheets are the same. Thus, the marks obtained by the Respondent No. 1 were correctly disclosed by the Respondent No. 1, while applying for appointment on the post of Postal Assistant even though the Roll Number, as mentioned in the Mark-Sheet submitted by him, was not correct.

21. It is noteworthy that the concerned University, namely, Sampurnanand Sanskrit Vishwa Vidhyalaya, Varanasi which conducted the said Examination, namely, Uttar Madhyama Examination, 1990 itself gave Report that the University-Roll Number of the Respondent No. 1 was 24052 and not 10524. The University issued fresh Mark-Sheet in respect of the Respondent No. 1. Thus, the Mark-Sheet submitted by the Respondent No. 1 with his application for appointment as Postal Assistant contained mistake in respect of the Roll Number while the marks entered in the said Mark-Sheet, were correct.

22. In the circumstances, we are unable to agree with the submission made by Shri H.P. Dubey, learned Counsel for the Petitioners that the Respondent No. 1 gave wrong particulars, while submitting his application for appointment as Postal Assistant, and therefore, his selection was rightly cancelled.

23. It is further noteworthy that the Petitioners have not raised any doubt about the correctness of the fresh Mark-Sheet and the Certificate bearing Roll No. 24052 issued by the concerned University in respect of the Respondent No. 1.

24. In the circumstances, we are of the opinion that the Tribunal rightly held that the Mark-Sheet submitted by the Respondent No. 1 with his application bore incorrect Roll Number due to some clerical mistake for which the Respondent No. 1 had no concern.

25. In view of the above, we are of the view that the Tribunal rightly allowed the aforesaid Original Application Number 837 of 2002 filed by the Respondent No. 1, giving directions as quoted in the earlier part of this judgment.

26. The Writ Petition filed by the Petitioners, in our view, lacks merit, and the same is liable to be dismissed.

27. The Writ Petition is accordingly dismissed. However, on the facts and in the circumstances of the case, there will be no order as to costs.