
(2012) 05 AHC CK 0157

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No.22892 of 2012

Prem Prakash Gautam

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 14-05-2012

Acts Referred:

Contract Act, 1872 — Section 4
Evidence Act, 1872 — Section 114
General Clauses Act, 1897 — Section 27
Post Office Act, 1898 — Section 4, 6
Uttar Pradesh General Clauses Act, 1904 — Section 27

Citation : (2012) 05 AHC CK 0157

Hon'ble Judges : Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.—The petitioner had submitted an application pursuant to the advertisement issued in 2011 for filling up vacant posts of Constable (General Duty) in CISF, CRPF, BSF and SSB.

2. It is stated that the petitioner could not appear for the Physical and Medical Test as the information sent by the petitioner by post on 26th April, 2012 was received by the petitioner on 1st May, 2012.

3. Learned counsel for the petitioner has submitted that it is because of the fault of the Post Office that the petitioner could not appear Physical and Medical Test and if the petitioner had received the information in time he could have appeared.

4. This contention of learned counsel for the petitioner cannot be accepted. The Full Bench of this Court in Neena Chaturvedi Vs. Public Service Commission, Uttar Pradesh & Ors., 2010 (9) ADJ 152 examined as to whether the Post Office will be an agent of the Department and it was observed:

"33. Apart from that insofar as the entire process of recruitment is concerned, may be in the office of respondent or any other body, which invites applications, if view is accepted that the post office becomes the agent of the addressee, the

very process of recruitment itself would be frustrated. A contract between the sender and the post office cannot bind the addressee. Even otherwise accepting a proposition that the post office becomes the agent of the body which invited the applications would lead to manifest inconvenience and absurdity. For how long would such body have to wait for receipt of applications sent by post to conduct the interview, or hold the examination and what happens in cases where the application is lost through transit. Therefore when applications are to be received by a particular cut off date assuming that there is an offer and acceptance, receipt of the application by that cut off date only would make the acceptance complete.

39. If applications are invited by addressee for an interview or recruitment from eligible members from the general public, by advertisement either expressly by one mode or more, one of which is post office, when an applicant chooses to send his application through post, though the letter is posted in time but delivered late after last date of receipt, the question that arises for consideration is:

"On an offer being made by advertisement, and an acceptance is sent by post, when does the acceptance become complete, on the date of receipt of the acceptance in the post office or its receipt by the addressee"

On an advertisement being issued by the offeror inviting applications through post and the sender (applicant) sends application through post (acceptance) but the same does not reach by the date mentioned in the advertisement, will the postal rule apply? The offeror in such cases, apart from inviting applications also lays down as one of its terms, that applications have to be received by a particular date. The offer therefore made if any, is receipt of the application through the post by a particular date.

The postal rule however applies, the moment an acceptance is posted through post, then the post office becomes the agent of the addressee (offeror). An advertisement inviting applications for examination or recruitment is merely an invitation to offer and not an offer itself. The person who sends his application by post or by any other mode assuming it is based on an offer, must send the acceptance by the particular date, in terms of offer. If it does not reach by that date, there can be no acceptance and the postal rule would not apply."

5. In view of the law laid down in the aforesaid Full Bench decision of the Court, the contention of the learned counsel for the petitioner that the Post Office is an agent of the Examining Body and, therefore, the application presented to the Post Office before the last date should be considered, cannot be accepted.

6. The writ petition is, accordingly, dismissed.