

Central Administrative Tribunal, Principal Bench

O.A.1080/97

New Delhi, this the 17th day of August, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

(15)

Sadeek S/o Islaam
R/o V & P.O. Sudaka,
Teh. Nuh, District Gurgaon,
Haryana-122001.

...Applicant

By Advocate: Shri A.K. Bhardwaj.

Versus

1. Union of India

Through:

The Secretary, Government of India,
Ministry of Postal & Telegraph,
Department of post,
Dak Bhawan, New Delhi.

2. The Sr. Superintendent of Post Offices,
Gurgaon Division,
Indian Postal Department,
Gurgaon, 122 001.

3. Issar Khan
R/o V & P.O. Sudaka,
Tehsil Nuh,
District Gurgaon (Haryana). . . Respondents

By Advocate Shri K.R. Sachdeva.

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this OA has impugned the order dated 19.3.97 (compilation I to Annexure A-1) vide which he has been asked to hand over the charge of the post of Extra Departmental Branch Post Master (hereinafter referred to as EDBPM) to respondent No.3 Shri Issar Khan.

2. The facts in brief are that the applicant was initially appointed to the post of EDBPM on provisional basis vide appointment letter dated 30.9.94 (Annexure A-1 of compilation-II). In the said appointment

km

(16)

letter, it was clearly mentioned that his services are purely provisional and can be terminated any time without notice when regular appointment is made and thereafter, he will have no claim for appointment to any post. The respondents thereafter had invited names of eligible candidates from the Employment Exchange for making regular appointment to the post of EDBPM and applicant was also amongst one of the candidates sponsored by the Employment Exchange. All the candidates recommended by the Employment Exchange including the applicant herein were considered for appointment to the post of EDBPM and respondent No.3 had been found fit for regular appointment to the said post.

3. Counsel for the applicant pointed out that the applicant was continuously working ~~in~~^{on} the post of EDBPM since 30.9.94 and his services have not been terminated by an appropriate termination letter. In the absence of the same, he has a right to continue to hold the said post and he is entitled to the relief claimed in the OA and the impugned order dated 19.3.97 deserves to be quashed.

4. On the contrary, the learned counsel for respondents pointed out that before filing this OA, applicant had earlier approached this Tribunal in OA 2190/96 which was decided on 7.11.1996. In that OA, applicant had prayed that his provisional appointment to the post of EDBPM should be regularised. That OA was disposed of with a direction to respondents that the case

ka

17

of applicant should be considered sympathetically as the circumstances permit. In compliance with the directions given in OA 2190/96, the department had considered the case of the applicant sympathetically but since he had not been found fit for appointment to the said post and his initial appointment also was only on provisional basis, he was asked to handover the charge of the post to respondent No.3 Shri Issar Khan.

5. We have heard learned counsel for the parties and gone through the records.

6. Learned counsel for the applicant has pointed out that Shri Issar Khan has been appointed merely on the ground that he was having landed property in his name whereas applicant had a joint family property which was in the name of his father. Shri Bhardwaj submitted that holding of property is not an essential qualification for consideration for appointment to the post of EDBPM.

7. A perusal of the Recruitment Rules annexed as Annexure R-1 to the respondents' reply do provide that a person seeking appointment to the post of EDBPM should have adequate means of livelihood and he should be a permanent resident of the village where the Post Office is located. On this account, respondent No.3 had a better case as he was having regular income from the landed property. These Recruitment Rules have not been challenged by applicant in his OA.

ka

(8)

8. In the facts and circumstances of the case, we find that respondent No.3 has been rightly selected to the post of EDBPM and applicant has no right to continue in the said post and the impugned order does not call for any interference. The OA is, therefore, dismissed. No costs.

9. The interim order passed on 15.5.97 is hereby vacated.

Shanta J-
(Mrs. Shanta Shastri)
Member (A)

Kuldeep
(Kuldip Singh)
Member (J)

Dinesh