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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1173/2000
MA 2861/2000

New Delhi, this the 28th day of November, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S. Tampi, Member (Admn)

Brijesh Kumar Sharma,
son of Sh. Shiv Dutta Sharma,
R/o Daulatpur Chamargate,
Iglas, Aligarh.

...Applicant.

(By Advocate : Sh. D.P.Sharma)

V E R S U S

1. Union of India,
through Secretary, Ministry of Post-
Telegraph Department, New Delhi.
2. Chief Postmaster, General,
Lucknow Region, U.P.Circle,
Lucknow.
3. Senior Superintendent of
Post Offices, Aligarh Division,
Aligarh.
4. Director General of Post Offices,
New Delhi.

...Respondents

(By Advocate : Sh. A.K.Bhardwaj)

O R D E R (ORAL)

Justice V.Rajagopala Reddy,

The applicant who was holding the post of Extra Departmental Agent (EDA) under respondent No.3 since 1991 was selected to the post of Postal Assistant by an order dated 6-9-96. He was sent for training for a period of 15 days from 2-12-96 to 16-12-96 accordingly he completed the practical training. However, without issuing any order of appointment, by an order dated 4-12-96, the selection of the applicant was cancelled by an order dated 27-1-97, on the ground that his selection was made erroneously. This order is impugned in this OA.

[Signature]

2. It is contended by the learned counsel for the applicant Sh. D.P.Sharma that the impugned order is vitiated for want of notice. Learned counsel for the respondents Sh. A.K.Bhardwaj states that the impugned action was taken as the appointment was not in accordance with the procedure to be followed for appointment. As the order was erroneous the error was rectified after it was detected and before the order of appointment issued. We have given careful consideration to the contentions raised in this case. It is not controversy that the applicant has been selected, after the written examination and interview. But meanwhile, it was found that the procedure for recruitment of why not proposal followed. The recruitment procedure for filling up the vacancies in the cadre of Postal/Sorting Assistance under laid down in the proceedings of 7.6.96. Certain clarifications also were issued in the said proceedings. The operative portion of the procedure has to be noticed and is extracted as under :-

"In this regard it is clarified that a merit list of open market candidates is to be prepared in the descending order of merit by totalling the marks obtained by them in,

- (a) 10+2 examination
- (b) Typing test
- (c) Date Entry qualification
- (d) Aptitude test
- (e) Interview in the matter as elaborate in this office letter No. 60-36/93-SPB-1 dated 28-2-95.

The merit list for EDAs is also to be prepared in a similar manner. As an example, if by doing so the last open market candidate has obtained seventy five marks out of a total of hundred assessed as a result of all the above 5 components and an EDA secures sixty five or more marks in all the 5 component as mentioned above



only, then will he be considered for unfilled vacancies of the Departmental quota.

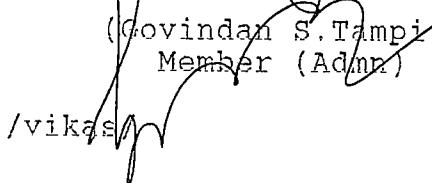
Kindly ensure that the above instructions are correctly followed."

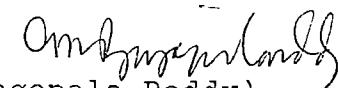
3. ~~The~~ A perusal of above procedure makes it clear that it is not sufficient to have obtained merit during the year in question. It is also necessary that the marks obtained by the candidate should not be less than 10% of the marks obtained during the last year's recruitment to the last candidate of the open market candidates. Thus, if the last open market candidate had obtained 75 per cent marks, the EDA who secure 65 per cent or more marks will only be considered and appointed for the vacancy of the Departmental quota. The candidate who got less than 65 per cent is not eligible for appointment. The idea behind this policy appears to be that the department wants to maintain a certain level of standards, which should be comparable to the last candidate who has been selected in open market. In the instant case, the last candidate who was selected in open market during 1995 (the last candidate) was 53.52%. Hence the last EDA candidate to be selected in the examination early 1996 should not obtain less than 43.52%, since the applicant obtained only 42.30 per cent, his selection was now cancelled. It appears that the selection was made without following the above procedure and we are of the view that the same cannot be faulted.

4. The contentions of the learned counsel of the applicant that the clarification dated 19-4-99 issued by the Deputy Director General (Personnel) has to be applied in this case, a perusal of the

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clarification shows that it was given on the basis of the judgement of the Tribunal dated 14-9-98 in OA No. 2192/96 with OA 2580/96 on the ground that the last examination was held in 1982 and that the syllabus has changed. It was directed in the judgment that the system of comparing the marks of the EDAs obtained in 1996 with the last recruitment made in 1982 was faulty. As the minimum qualification is matriculation and now it is 10+2, that principle cannot be applied in the present case and it was confined only to the facts of the above case. We do not, therefore, find any merit in the OA and no warrant to interfere with the impugned order. The OA is, therefore, dismissed. However, we do not order costs.


(Govindan S. Tampi)
Member (Admn)
/vikas


(V. Rajagopala Reddy)
Vice-Chairman (J)