

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.843/1991

NEW DELHI THIS THE 27TH DAY OF MAY, 1994.

MR. JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

Sh.Nand Kishore
S/o Shri Atma Ram Gupta
R/o Village & P.O.Prasoli
Distt.Muzaffarnagar ...

APPLICANT

NONE FOR THE APPLICANT.

VS.

1. Director General
Posts & Telegraphs
through its Departments of
Posts and Telegraphs,
Dak Tar Bhawan, New Delhi.
2. Post Master General
Dehradun Region,
Dehradun Distt.
Dehradun.
3. Superintendent of Post Offices
Muzaffarnagar Division
Muzaffarnagar
4. Shri Subhash Chand
S/o Shri Makli Singh
R/o Parasauli
Muzaffarnagar ...

RESPONDENTS

NONE FOR THE RESPONDENTS.

ORDER(ORAL)

JUSTICE S.K.DHAON:

The controversy in this OA pertains to the appointment of an Extra Departmental Sub Post Master. The applicant competed with others including respondent No.4 Shri Subhash Chand. The applicant made a representation to the authority concerned. He gave another representation to the higher authority. In both the representations, he remained unsuccessful. He, therefore, approached this Tribunal challenging the appointment of respondent No.4.

2. A counter-affidavit has been filed on behalf of respondents 1 to 3. Shri Subhash Chand has, however, not filed any counter-affidavit. It has been stated in the counter-affidavit that due publicity was given to the proposed appointment. The candidates were sponsored through the Employment Exchange. They were informed through registered letters to submit their documents. The applicant and Shri Subhash Chand complied with the

requirements and submitted their applications.

3. The appointment is governed by ^{the} statutory rules. The relevant qualification may be considered. The qualification is under the heading "Property qualification". The requirement is:

" Must have adequate means of livelihood. Must be able to offer office space as will serve as a small PO with provision for installation of even P.C.O."

4. The sole attack of the applicant appears to be that respondent No.4 does not and did not possess the property qualification. We may straightway deal with this submission as it does not hold water in view of the requirements extracted above. It is not the requirement of the rules that a candidate must ^{either} possess or own some property ~~in the village concerned~~. What is required is that he must have substantial means of livelihood and he must be in a position to offer office space so as to enable the work of a Post Office being carried out from there.

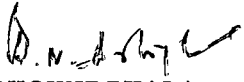
5. In the counter-affidavit filed on behalf of Respondents 1 to 3, the material averments, are these. The applicant is only a High School and he obtained 232 marks out of 500 with a percentage of 46.4%. He passed with grace marks in the English paper. Shri Subhash Chand obtained 303 marks out of 600 with a percentage of 50.5%. The applicant has immovable property in the shape of a plot of land and a shop by which he was earning above Rs.12,000/- per year whereas Sh. Subhash Chand also runs a shop and has an income of Rs.8000/- per year. Shri Subhash Chand was considered to be a better candidate. Therefore, he was given the appointment.


6. We are not sitting as a court of appeal to evaluate the respective qualifications of both the parties. What has to be seen is whether there was the element of

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fairness in the action. We do not find that the respondents acted arbitrarily in selecting Sh.Subhash Chand. We are satisfied that Shri Subhash Chand fulfils the qualification, referred to above. The attack of the applicant that ^{Sh.Subhash Chand} ~~he~~ stood disqualified, though ^{he} possessed the requisite qualification is ^a misplaced one.

7. This is not a fit case for interference. The OA is dismissed but without any order as to costs.


(B.N.DHOUNDIYAL)
MEMBER(A)


(S.K.DHAON)
VICE-CHAIRMAN(J)

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