

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 3rd day of December 2003.

Original Application no. 536 of 1996.

Hon'ble Maj Gen K.K. Srivastava, Member A
Hon'ble Mr A K Bhatnagar, Member J

Smt. Neelam Singh, w/o Sri V. Singh,
R/o Vill & Post Office Gobaraha,
Distt. Varanasi.

... Applicant

By Adv : Sri B. Ram & Sri A Tripathi

Versus

1. Union of India through Secretary, Posts,
Department of Posts, India,
Ministry of Communication, Parliament Street,
New Delhi.
2. Post Master General, Allahabad Region,
ALLAHABAD.
3. Senior Supdt. of Post Offices,
East Division,
VARANASI.
4. Smt. Neelam Singh, w/o Indra Bahadur,
(EDBPM) Gobaraha, R/o Vill & Post Office, Gobaraha,
Distt. Varanasi.

... Respondents

By Adv : Sri S Chaturvedi & Sri A.K. Srivastava.

ORDER

Hon'ble Maj Gen K.K. Srivastava, AM.

In this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has challenged the appointment of respondent no. 4 as Extra Departmental Branch Post Master (in short EDBPM), Gobaraha, Varanasi with direction to the respondents to appoint her as EDBPM, Gobaraha, Varanasi.

2. The facts, in short, are that on retirement of one Shri Bhawani Shanker Singh on 4.10.1994 the post of EDBPM, Gobaraha fell vacant. The names were called from Employment Exchange. On 14.6.1994 (Ann 1) the Employment Exchange sponsored the names of 5 candidates including the name of the applicant. The respondents vide letter dated 26.7.1994 informed the applicant that she may submit her application form in prescribed promorma with all relevant documents by 26.8.1994. The applicant applied for the same by due date, enquires were made. Respondent no. 3 vide letter dated 23.2.1995 wrote a letter to the applicant that her High School marks sheet did not bear the name of her husband so it was difficult to assess about the genuineness of this certificate. Respondent no.4 also called for the High School certificate alongwith proof of the landed property which was mutated in applicant's name. The applicant was given 15 days time. The applicant obtained the certificate issued by Principal KISAN Uchchatar Madhyamik Vidyalaya, Saidupur, Varanasi and also extract of the Khatauni in support of the landed property which was mutated in her name. Both these certificates were duly delivered in the office of respondent no. 3. On conclusion of the selection process, respondent no. 4 was appointed. Aggrieved by the same the applicant sent a complaint/representation to respondent no. 2 i.e. Post Master General, Allahabad, through registered post on 31.5.1995, which is still pending for disposal. Hence, the applicant filed this OA, which has been contested by the respondents by filing counter affidavit.

3.

submitted that the applicant was most meritted candidate for the post and, therefore, the appointment of respondent no. 4 is illegal and against the rules. The proper enquiries were conducted by the respondents about the genuineness of marks sheet. The Principal of the college confirmed its correctness. Since, there was a dispute between the college management the applicant was not able to get certificate and the claim of the applicant has been ignored in absence of High School certificate, which is not correct. Learned counsel for the applicant submitted that the selection should be based on merit as has been laid down by the Hon'ble Supreme Court in case of State of Punjab & Ors Vs. Constable Subhash Chandra & Ors, 1994 SCC (L&S) 481 and also by Madras Bench of this Tribunal in cases of P. Josephine Amudha Vs. Union of India & Ors, 1000 (3) ATJ 639, ~~and~~ ~~xxxxxx~~ K.G. Jayasankar Vs. Union of India & Ors 2002 (3) ATJ 325 and also by Jabalpur Bench of this Tribunal in case of Ram Kumar Gupta Vs. Union of India & Ors 2003 (3) ATJ 128. Relying upon the Full Bench judgment of Bangalore Bench of this Tribunal in case of H Lakshamna & Ors Vs. Supdt. of Post Offices, Bellary & Ors, 2003 (1) ATJ 277, learned counsel for the applicant submitted that possession of adequate means of liveli-hood in DG Circular dated 6.12.1993 is neither an absolute condition nor a preferential condition requiring to be considered for the post of EDA. Therefore, the appointment of respondent no. 4 ignoring the claim of the applicant is liable to be quashed.

4. Opposing the claim of the applicant, learned counsel for the respondents submitted that while submitting the form the applicant did not attach her High School certificate. Besides the income certificate produced by the applicant shows Rs. 1000/- permonth as the income of the applicant,

whereas the reviewing authority reported the income of the applicant as Rs. 600/- permonth. Thus it creates doubt about the authenticity of the income. Therefore, the candidature of the applicant for the post was not found fit and hence she has rightly not been appointed.

5. Sri A.K. Srivastava, appeared on behalf of respondent no. 4, submitted that since the applicant did not submit her High School certificate, she could not be considered on the basis of High School marks because the same did not establish her identity. Learned counsel further submitted that respondent no. 4 fulfilled all the conditions and was eligible for appointment and, therefore, she was appointed. She has already worked for more than 7 years on the post.

6. We have heard learned counsel for the parties, considered their submissions and perused records.

7. The case of the applicant is that she should have been appointed on the post being most meritted candidate, whereas the respondent's case is that the applicant failed to produce her High School certificate and only produced marks sheet, which created confusion. For want of High School Certificate it could not be confirmed that the marks sheet produced by the applicant actually belonged to her. In the counter affidavit the respondents, in para 12, have stated that Principal of the college on one hand stated that records relating to the applicant are not available while on the other hand the Principal asserted that Smt. Neelam Devi, the examinee of the U.P. Board of High School Examination 1984 with roll no. 1147057 is the daughter of Sri Ram Vilas Singh. In para #2 it has further been stated that the copy

5.

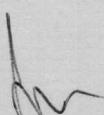
of the marks sheet of the applicant was given by the Enquiry Officer i.e. Assistant Supdt. of Post Offices, Mughalsarai Sub Division to the Principal of the college, but the same ^{had} ~~has~~ not ^{been} ~~been~~ returned duly verified till date. As per respondents, even in the income certificate Rs. 1000/- ~~has~~ shown on the pencil side is not the actual income of the applicant by her own source. There is a variation in the income certificate. The Revenue authority has reported that the income of the applicant is Rs. 600/- permonth.

8. We have carefully perused the income certificate filed as annexure CA 1 and we find that the income of the applicant by Revenue authorities has been shown as Rs. 600/- permonth, whereas the applicant in her application form has shown Rs. 1000/- as her monthly income. However, this point, whether the applicant had income of Rs. 1000/- or Rs. 600/- is not very relevant in the present context. What is relevant is about the correctness of the marks sheet submitted by the applicant.

9. Admittedly, the applicant passed High School examination from UP Board in the year 1984 and the selection for the post was initiated and finalised during the year 1994-95. The respondents ~~h~~alled for the High School certificate from the applicant to establish the identity of the applicant and also to verify the correctness of the marks sheet submitted by the applicant. The applicant failed to produce her High School certificate. We are unable to understand as to what restrained the applicant to submit her High School certificate. The applicant appeared in the High School

examination in the year 1984 as per marks sheet and she would have certainly got her High School certificate within two or three years, thereafter. Yet the applicant did not submit her High School Certificate to respondents. In case the applicant was not in possession of the High School certificate, she should have informed the respondents about the same and made efforts to obtain a duplicate High School certificate from UP Board. The applicant did not take any such action and all along has been maintaining that she is the most merited candidate on the basis of marks sheet submitted by her and she should be appointed on the post instead of respondent no. 4. Therefore, the argument of the learned counsel for the applicant that the applicant could not ⁱⁿ ~~get~~ ⁱⁿ the High School certificate due to dispute between the college management is not acceptable to us.

10. Learned counsel for the applicant placed reliance on various judgments of Hon'ble Supreme Court, Madras and Jabalpur Bench of this Tribunal and also Full Bench Judgment of Bangalore Bench of this Tribunal. In the present controversy the law laid down by the various Courts relied upon by the applicant shall not be helpful to the applicant. It is not disputed that the applicant did have independent source ^{h as} of income, but she failed to submit her High School certificate as demanded by the respondents, she cannot be granted the ^h ~~relief~~ ^h sought for.



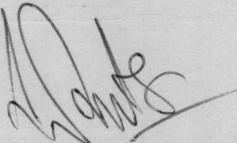
3

7

11 In the facts and circumstances and our aforesaid discussions, the OA is devoid of merit and the same is accordingly dismissed.

12. There shall be no order as to costs.


Member (J)


Member (A)

[p.c]