

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

...

ORIGINAL APPLICATION NO. 774/98

this the 28th day of May 2004.

HON'BLE MR. D.C. VERMA, VICE CHAIRMAN
HON'BLE MR. D.R. TIWARI, MEMBER(A)

Smt. Suman Singh, w/o Sri Jitendra Kumar Singh, R/o Village
Jura Hardhan, P.O. Jura Hardhan, District Chandauli.

Applicant.

By Advocate : Sri S.N. Singh for A.K. Singh.

Versus.

1. Union of India through Ministry of post & Telegraph,
New Delhi.
2. Post Master General, U.P., Lucknow.
3. Sr. Supdt. of post offices, Purva Mandal, Varanasi.
4. Sri Jamwant Singh, S/o Sri Shyam Behari Singh,
R/o Village & post Jura Hardhan, District Chandauli.

Respondents.

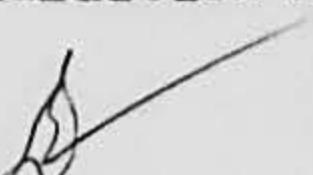
By Advocate : Sri P. Srivastava for Sri S. Chaturvedi.

O R D E R

PER D.C. VERMA, VICE CHAIRMAN.

By this O.A., the applicant has challenged the appointment of the respondent no.4 on the post of Extra Departmental Branch post Master (in short EDBPM), Jura, Hardhan District Chandauli.

2. The facts, in brief, is that on retirement of Sri Shyam Behari Singh as EDBPM, the vacancy was notified and names were requisitioned from Employment Exchange also. The applicant and the respondent no.4 were considered alongwith others. The respondent no.4 has been appointed, whereas the applicant's candidature has been rejected.



3. The respondents' case is that though the applicant obtained higher marks in the High School, but she was not considered for the post due to the reasons stated in para 11 of the Counter, which is as below :

"Not having suitable accommodation for housing the post office.

2. Non- submission of the proof of landed property i.e. Intikhab/Khatauni.

3. Not having good reputation among the public of the locality."

4. The counsel for the parties have been heard at length. As per the decision of Full Bench of this Tribunal in the case of H. Lakshmana & Ors. Vs. Supdt. of Post Offices, Bellary & Ors. reported in 2003(1) ATJ 277, the selection to the post of EDBPM is to be made on the basis of merit and possession of adequate means of livelihood in the circular dated 6.12.93 issued by the Department is neither an absolute condition, nor is a preferential condition requiring to be considered for the post.

5. In another decision, upholding the decision of the Tribunal, the Punjab & Haryana High Court in the case of Karam Singh Vs. C.A.T. reported in 2003 (1) A.T.J. 328 held that rules of appointment require that the selection for the post of EDBPM is to be made on the basis of academic merit i.e. the marks obtained in the Matriculation examination. It has further been held that it is not a pre-condition for appointment that a person who stood first in merit has the suitable accommodation for running agency prior to his appointment/selection.

6. In view of the aforesaid two decisions, the conditions laid down in the rules are not required to be considered at the time of selection. The selection is only to be made on the basis of merit i.e. marks obtained in the High School examination. Admittedly, the applicant obtained higher marks. Consequently, on merit the name of the

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applicant stands at first.

7. It was for the respondents to issue an offer to the applicant to fulfil the other conditions before taking over, but no such procedure was followed. On the other hand, in this case the applicant informed the respondents that she has already purchased a plot and wanted time to produce the Intikhab/khatauni after mutation. The same was actually produced on 22.12.97. The applicant also produced income certificate from the Tehsildar. In spite of that, the respondents rejected the income certificate and also the applicant's sale deed with regard to purchase of land.

8. The other ground is that the applicant is not having good reputation among the public of the locality. This ground too is not made out. As per the respondents' own reply the members of the applicant's family are of bureaucratic nature. That itself, cannot be taken to mean that the family is not having good reputation. In contrast to that, the applicant has filed the certificates of Village Pradhan and Kshetra Panchayat with regard to her reputation and honour. The applicant has also filed a map of accommodation for housing the post office. All these things were discarded in an arbitrary manner.

9. Though the registered notice was sent to the respondent no.4 and the same was ^{not} returned back, hence it has been taken as served in the light of the decision of the apex court in the case of Chief Commissioner of Income Tax Vs. V.K. Gururaj reported in 1996 SCC (L&S) 579. As the private respondent did not file any reply, hence the pleadings produced has been examined and the same has been considered in detail.

10. In view of the discussions made above, it is held that the appointment of the respondent no.4 has been

arbitrarily been made by the respondents without following the rules prescribed for recruitment to the post of EDBPM. Accordingly, the order appointing the respondent no.4 to the post of EDBPM is quashed and he shall be removed immediately. The respondents shall examine, in order of merit, and shall appoint the person accordingly by observing the procedure as has been given above. Compliance of the above order shall be made within a period of three months from the date of receipt of copy of this order. Costs easy.

Dinesh
MEMBER (A)

Dinesh
VICE CHAIRMAN

GIRISH/-