

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 12TH DAY OF JULY, 2001

Original Application No. 177 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA,A.M.

Kamlesh Chandra Pandey,  
Son of Shri Ram murti Pandey,  
R/o Village Gurugram, Tehsil  
Jalalabad, District Shahjahanpur.

.... Applicant

(By Adv: Shri Amit Saxena)

Versus

1. Union of India through the  
Secretary, Department of Post  
Telegraphs Ministry of Post and  
Telegraph, New Delhi.
2. Superintendent of Post Offices  
Shahjahanpur, Division  
Shahjahanpur.

.... Respondents

(By Adv: Ms.Sadhna Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

The facts giving rise to this application are that respondent no.2 published an advertisement dated 4.10.2000(Annexure CA1) inviting applications for appointment of EDBPM for the post office Gurugram district Shahjahanpur. In response to the above advertisement applications were submitted by the applicant and five others. The proceedings for selection thereafter were taken in routine manner. However, Sub-Divisional Inspector submitted a report with a chart that none of the candidates satisfy all the conditions provided in the advertisement. On the basis of the report of the Sub Divisional Inspector respondent no.2 by order dated

9.1.2000 directed to issue fresh advertisement after giving 15 days time. In pursuance of the aforesaid order a fresh advertisement was published On 9.1.2000, aggrieved by which applicant has approached this Tribunal and questioned the action of the respondent no.2 in cancelling the proceedings on the basis of the earlier advertisement dated 4.10.2000. Learned counsel for the applicant has invited our attention towards the chart filed as (Annexure 3 to the CA) and it has been submitted that the six candidates satisfied all the conditions except for the condition mentioned in column 9 i.e. 'income'. It is submitted that against all the six candidates the remark given is that the certificate of the income has not been filed. Against the applicant who is mentioned at sl.no.1, the remark in column no.9 is that he has not filed certificate of income issued by Tehsildar. Learned counsel has also placed before us the relevant para 4 of the advertisement dated 4.10.2000, which required information about income. For convenience relevant paragraph 4 is being reproduced below:-

आय

अभ्यर्थी को जीविकापार्जन हेतु निजी स्रोत से आय होनी चाहिए ।  
भू-सम्पत्ति/अचल सम्पत्ति की प्राप्त आय वाले अभ्यर्थियों को प्राथमिकता दी जायेगी । बशर्ते कि वह नियुक्ति के लिए अन्य प्रकार से पाय हो ।

From perusal of para 4 it is clear that there was no requirement that the information about income should be supported by a certificate issued by the Tehsildar. learned counsel has submitted that for this reason none of the candidates, including applicant, filed any certificate in support of the information about the

income. It is submitted that respondent no.2 illegally cancelled the entire exercise and ~~advertised~~<sup>issued</sup> a fresh advertisement without there being any justifiable cause. It has been submitted that if certificate of Tehsildar was thought necessary the candidates should have been asked to support the information of income by a certificate issued by Tehsildar. It is submitted that in the circumstances it was not at all necessary to cancel the advertisement and the exercise already undertaken. It is also submitted that in the impugned advertisement dated 9.1.2001 has been issued with the only change that in column no.4 meant for showing income, an additional requirement is there that the income certificate should be obtained from Tehsildar and should be annexed with the application. But for this extra requirement rest of the contents of the advertisement are same. Learned counsel has also submitted that by issuing a fresh advertisement, for which there was no just and proper cause, the applicant has been exposed to a wider contest, and thus reducing the chances of selection. The action was arbitrary and the impugned advertisement dated 9.1.2000 is liable to be quashed.

Ms.Sadhna Srivastava learned counsel for the respondents on the other hand submitted that as the income was not supported by any certificate from Tehsildar the advertisement has been rightly cancelled and a fresh advertisement has been issued in pursuance of which selection has already taken place and at this stage it will not be just and proper to interfere with the selection already completed. The learned counsel also submitted that the earlier advertisement was not complete as it did not require the candidates to

support their 'income' by a certificate issued by Tehsildar which was an important requirement and there was sufficient reason for cancelling the advertisement and the exercise taken thereunder.

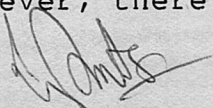
We have carefully considered the submissions made by the counsel for the parties. However, we are not convinced with the submission of the learned counsel for the respondents that the advertisement dated 4.10.2000 suffered from any serious deficiency so as to cancel the entire exercise. The relevant Rules applicable to such selection do not require that the information about 'income' should be supported by a certificate issued by Tehsildar. Rules also do not prescribe a proforma for the advertisement. In such circumstances it was left to the wisdom of appointing authority to publish advertisement. It is admitted case that the advertisement did not require the applicants to support their information of income by a certificate issued by tehsildar. Bonafidely, acting on the basis of the advertisement they gave the information about their income. However, this deficiency could be removed by asking the candidates to obtain a certificate from Tehsildar and support the information about income or it could be done even after selection and before offering the appointment. But respondent no.2 acting illegally cancelled entire selection proceedings. It may be mentioned here that applicant had not filed his mark sheet of High school. He was given a notice to file the mark sheet of high school in absence of which he may not be considered for selection. In response to the notice applicant filed the mark sheet of the high school. Thus, such a procedure was already in practice and was adopted in the present case. It cannot be disputed that in view of the difficult situation of unemployment in the

country, in response to a fresh advertisement, there may ~~be~~ occur a change and applicants may <sup>be</sup> exposed to wider and stiff competition. The fresh advertisement could ~~be~~ be issued by respondent no.2 but for that there should have been sufficient and justifiable strong grounds, which we find lacking in the present case. In our opinion the applicant is entitled for relief.

For the reasons stated above, this OA is allowed. The advertisement dated 9.1.2001 (Annexure 1 to the OA) is quashed. The respondents are directed to complete the process of selection on the basis of the advertisement dated 4.10.2000 after giving opportunity to all the six candidates to file a certificate of income obtained from Tehsildar. This Tribunal after hearing counsel for the parties on 14.3.2001 passed the following interim order.

"We have heard the learned counsel on the question of interim relief. It is, hereby provided that any appointment made by the respondents on the post of Branch Post Master, village Gururam, tehsil Jalalabad district Shahjahanpur shall be subject to final decision of this OA."

In view of the aforesaid interim order, as the OA has been allowed, any selection made on the basis of the impugned advertisement dated 9.1.2001, shall not have any effect. However, there will be no order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 12.7.2001