

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

DATED : ALLAHABAD THIS THE 14th day of November, 1995

QUORUM :- Hon'ble Mr. S. Das Gupta, Member-A.
Hon'ble Mr. T. L. Verma, Member-J.

Original Application No. 1521 of 1992.

Balmiki Singh Yadav, S/o. Patiram Singh Yadav,
Resident of village and Post Dharammarpur,
District Ghazipur. Applicant.

(By Advocate Sri C.H.S.Gautam)

Versus

1. Union of India, through Superintendent of Post Offices, District Ghazipur.
2. The Inspector of Post Offices, Ghazipur.
3. Mohd. Abdullah son of Mohd. Hanif,
Resident of Village & Post Office Dharmmarpur,
District Ghazipur.

..... Respondents.
(By Advocate Sri Amit Sthalker)

O _ R _ D _ E _ R (Oral)

(By Hon. Mr. S. Das Gupta, Member-A)

The applicant has challenged the selection of respondent No.3 and his appointment on the post of Extra Departmental Sub-Post Master, Dharmmarpur on the ground that he is better qualified than ~~of~~ the respondent No.3 and therefore, the appointment of the respondent No.3 should be quashed. He has sought the relief of setting-aside the appointment made ~~to~~ the respondent No.3 and for a direction to

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the respondents to hold fresh selection and to consider the claim of the applicant on the said post.

2. The brief facts giving rise to this application are that a vacancy of E.D. SPM arose in Dharmmarpur Sub-Post Office, Ghazipur for which applications were invited. The applicant was one amongs of 10 candidates who ^{were} ~~have~~ sponsored by Employment Exchange for the post. The applicant's case is that he is Matriculate having obtained 59% marks whereas the respondent No.3 is only VIII Class pass. The Rules governing the recruitment to the E. D. A. Post specifically states that though the minimum educational qualification is VIII Class pass, the matriculate may be given preference. Therefore, by not appointing ^{him} and appointing respondent No.3 who is only VIII Class pass ⁱⁿ ~~is~~ a violation of the Rules.

3. The respondents have filed a counter-affidavit in which it has been stated that among 10 candidates, 8 were matriculates and only 2 were VIII Class pass. It has not been specifically denied that the respondent No.3 was one of the two candidates who were only VIII Class pass. It has, however, been stated that a candidate other than the applicant had highest marks in matriculation examination. The respondents have further averred that the respondent No.3 is resident of village Dharmmarpur itself whereas the applicant is resident of hamlet Kotaya which is far away from Village Dharmmarpur. Moreover, the ^{landed} respondent No.3 possesses much larger/property

than the applicant and also the respondent No.3 ^{has} got a pucca house ^{and} the applicant has got kuchcha house. All these considerations ^{have} gone into the selection of the respondent No.3 in preference to the ^{applicant} ~~respondents~~.

4. The applicant has filed a Rejoinder-Affidavit in which he has reiterated that he is better than respondent No.3 in all respects. He has annexed a copy of the Khatauni to show that he also possesses a large landed property.

5. We have heard the learned counsels for the parties and perused the record.

6. The rules governing recruitment to the post of Extra Departmental Agents are contained in Section III of the Extra Departmental Agents Conduct and Service Rules, 1964. These rules, which are in the nature of instructions have, in the absence of statutory rules, force of statutory law. In the Column "Educational Qualifications" for the post of ED Sub-Post Masters, it has been stipulated that the minimum qualification would be VIII standard and Matriculation or equivalent may be preferred (emphasis supplied). So far as the residential qualification is concerned, it is stated that the ED SPM must be a permanent resident of ^{the} village where the Post Office is located. He should be able to attend to the post office work as required by him keeping in view the time of receipt, despatch and delivery of mails, which need not be adapted to suit his convenience or his main avocation. So far as the income and

ownership of property are concerned, it has been stipulated that the person who is appointed as ED SPM must be one who has an adequate means of livelihood. The person selected for the post of ED SPM/EM BPM must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with provision for installation of even a PCO.

7. The respondents have specifically averred that in all other respect, i.e. residential qualification and also with regard to income and ownership of the property, the respondent no.3 is superior to the applicant. It is only in respect of the educational qualification, that the applicant scores over the respondent No.3. However, rules are very clear that ~~the~~ preferring ^a the Matriculate is not a mandatory requirement. If the respondents have given weightage to various other factors and have found the respondent No.3 as better qualified person than the applicant, we see no reason to interfere in the decision in absence of any allegation of malafide on the part of the respondents.

8. The applicant has contested the respondents' contention that the respondent No.3 is better candidate with regard to residential and property qualification. These ~~consideration of this matter~~ are subject to verification by the respondents. The respondents have averred that on such verification, they have found the respondent No.3 as better qualified. We see no reason to ^{ever} interfere

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into the verification of this statement in absence of any imputation of malafide.

9. In view of the foregoing, this application has no merit and dismissed accordingly. There will be no order as to costs.


(Member-J)


(Member-A)

VKP/-