

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Dated: ALLD. on this 24<sup>th</sup> Day of September 1997.

CORAM : Hon'ble Mr Justice B G Saksena, V.C.  
Hon'ble Mr S Das Gupta, A.M.

ORIGINAL APPLICATION NO. 300 OF 1993.

Aditya Kumar, aged about 32 years,  
S/o Shri Sewa Ram, R/o Gram Post  
Tajpur, Distt: Farukhabad.

..... Applicant

C/A Shri Shrish Chandra &  
" R G Sinha.

Vs.

(1) Union of India through  
The Secretary  
Ministry of Communication (Postal)  
New Delhi

(2) Superintendent of Post Offices  
Fatehgar Dv.  
District Farukhabad

(3) Yogendra Singh  
Son of Shri Pal Singh  
R/o Village & Post : Tajpur  
Sub Post Office Mohamdabad  
Farukhabad.

..... Respondents.

C/R Shri S D N Singh &  
" N K Singh

ORDER

(By Hon'ble Mr S Das Gupta, A.M.)

Through this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has assailed the selection and appointment of respondents No.3 on the post of Extra Departmental Branch Post Master (EDBPM) at Tajpur, Distt: Farukhabad. He has prayed that the letter of appointment dated 10.02.1993 be quashed and the applicant be allowed to work on the aforesaid post.



2. The post of EDBPM, Tajpur having fallen vacant, a requisition was sent to Employment Exchange on 22.06.1992 for sponsoring of suitable candidates for the said post. The employment Exchange sponsored names of 5 candidates including that of applicant as well as respondent No.3. The applicant claims that he was informed that he had been appointed ~~for~~ on the post and therefore he approached the respondent No.2 to enquire about the selection and he was asked to take over the charge on 3.2.1993 which he did. It is alleged that the respondent No.3 manipulated the matter in such a way that he was issued a letter of appointment which is <sup>impugned</sup> in this case. The applicant has challenged the selection and appointment of respondent No.3 on the ground that the minimum educational qualification was 8th class pass and that he had passed this examination in 1st division ~~securing 261 out of 500 marks~~ <sup>is a</sup>. He has also claimed that he <sup>is a</sup> resident of Tajpur and had adequate source of income as well as landed property. He, therefore, claims that he should have been selected for the post, particularly in view of the fact that he had already put in more than 200 days as substitute EDBPM of Tajpur, Sub Post Office and therefore should have been given weightage in view of a circular dated 23.02.1987. The applicant has further alleged that the respondent No.3 should not have been selected particularly because he was involved in criminal cases.

3. The respondents have filed a Counter Affidavit in which it has been stated that pursuant to the instructions contained in D.G. (Post) letter dated 10.05.1991, the minimum qualification for appointment to the post of EDBPM was Matriculation or its equivalent and that the marks obtained in this examination would be the determining factor for adjudging the interse merit of the candidates. Since

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the respondent No.3 obtained maximum marks in the High School and had fulfilled the other requisite qualifications he was selected for the post and the appointment letter was issued in his favour. As regards the allegation that the respondent No.3 was involved in the criminal cases, it has been stated that he was appointed only after obtaining satisfactory police verification report. They have further stated that the applicant had worked on the post of EDBPM only during leave granted to his father who was <sup>the</sup> regular incumbent of the post and that there are no rules for giving weightage for working during leave period of the regular incumbent.

4. The applicant has filed a rejoinder affidavit in which he has reiterated his contention in the O.A. He has further stated that the required educational qualification was only 8th class pass and he has passed this examination in Ist Division whereas respondent No.3 did not pass this examination in Ist division. Thus the applicant was of a better merit.

5. We heard the arguments advanced by the learned counsel for both the parties and also perused the rival pleadings on record.

6. The instructions regarding selection of various Extra Departmental Agent are contained in section III of the Extra Departmental Agents (Conduct & Service) Rules, 1964. It appears therefrom that the minimum educational qualification for the post of EDBPM is Matriculation or its equivalent. This section also contains the extract of a letter dated 10.05.1991 issued by D.G. (post) specifying that for ~~EDPM~~ appointment, the person who secure maximum marks in the examination which makes him eligible for the appointment, would be offered appointment subject to his satisfying other prescribed qualifications regarding possession of property and source of income. The impugned selection has taken place in Feb 1993.



Therefore, according<sup>to</sup> the departmental instructions contained in section III of EDBPM (Conduct & Services) Rules, 1964, a candidate who obtained the highest marks in the High School examination was to be adjudged as the best candidate. The applicant has not controverted the contention of the respondents that respondent No.3 had secured the highest marks in the High school examination. There is also no dispute that respondent No.3 had fulfilled the other necessary qualifications. There is, therefore, no doubt he was rightly adjudged as the best among the five candidates. So far as the allegation of his involvement in criminal cases is concerned, it was for the respondents to satisfy themselves that he was suitable for the appointment in public service. The respondents have specifically averred that the appointment of respondent No.3 was done only after obtaining satisfactory police verification report.

7. The applicant's claim that he should have been given weightage on the basis of his past experience, also has no force. There is nothing in the instructions contained in section III of the EDBPM (Conduct & Service) Rules, 1964 which provides for giving any extra weightage to those who have any past experience. Moreover, in the present case, it is clear that the applicant was the son of the earlier incumbent of the post and therefore <sup>had</sup> ~~he~~ the advantages of officiating as EDBPM whenever his father went on leave. He cannot be allowed to derive any benefit out of such situational advantages particularly when there is no departmental instructions in support thereof. The applicant has mentioned about certain instructions contained in a circular dated 23.2.1987, we, however, do not find the circular being mentioned in the aforesaid rules.

8. In view of the foregoing, we find no merit in this O.A. and the same is accordingly dismissed. The interim order is vacated. Parties shall, however, bear their own costs.

/snt/

A.M.

V.C.