

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 522 of 1993

Allahabad this the 20/5 day of Jan 1995

Hon'ble Mr. S.Das Gupta, Member(A)
Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Prem Shanker Dwivedi S/o Sri Raj Narain Dwivedi
R/o Village and Post Mawaiya Hinduani, Tehsil Handia,
District Allahabad.

Applicant.

By Advocate Shri N.L. Srivastava

Versus

1. Union of India through Secretary, Ministry of Communication, New Delhi.
2. Senior Superintendent of Post Offices, Allahabad Division, Civil Lines Allahabad.
3. Bundhu Ram Maurya S/o Sri Baljor Maurya, R/o Village and Post Mawaiya Hinduani Tehsil Handia, District Allahabad.

Respondents.

By Advocate Shri N.B. Singh for respondent no.1 and 2
Shri S.L. Kushwaha for respondent no.3

O R D E R

B-y Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

The petitioner Shri Prem Shanker Dwivedi has come before us under Section 19 of the Administrative Tribunals Act, 1985 pleading that the respondent no.2 has wrongly appointed the respondent no.3 Sri Budhu Ram Maurya to the post of E.D.B.P.M. in the Post Office Mawaiya Hinduani, Handia, Allahabad in preference to the petitioner. He pleads that he alongwith respondent no.3 had applied for this post through employment officer from where names had been called for by the respondent no.2 through letter

dated 05.3.1991(Annexure A-5). For this post, no written test is required and selection made by judging the merit of a candidate on the basis of documents submitted by the applicants.

He pleads that he is a Matriculate and Intermediate passed and Maximum marks secured in the High School Examination ~~amongst~~ is the sole criteria of appointment if, the candidates ~~here~~ fulfill other requisite conditions. He pleads that he had obtained more marks than respondents no.3 in the Matriculation Examination and therefore, he was entitled to be appointed. He has, thus, prayed for quashing the appointment letter in favour of respondent no.3 dated 24.3.1993(Annexure A-1) as and issued by respondent no.2 for a direction to respondent no.2 to appoint the petitioner to the said post w.e.f. 24.3.1993.

2. The respondent no. 1 and 2 in their written reply have pleaded that the respondent no. 3 was found to be a more suitable candidate on the basis of documents submitted and, therefore, he was appointed to the said post. They have pleaded that the respondent no.3 was having additional qualification of being a Social Worker and a participant in sports. They have denied that any discrimination has been done with the petitioner.

3. The respondent no.3 in his Counter-
reply has denied the allegations made by the petitioner against him and respondent no. 1 and 2.

He has claimed that the petitioner had passed his High School in 1974 whereas he had passed in the year 1975 and similarly the petitioner had passed his Intermediate in the year 1976 in IIInd division whereas he had passed in the year 1977 in IIIrd division. He pleads that amongst conditions for appointment, the educational qualification required is 8th Standard. The Matriculate or equivalent may be preferred. He has mentioned the other conditions of income, ownership of the property, residence and furnishing of security. He has also claimed that he is a social worker and his good behaviour, had been certified by the local persons including the Pradhan of Gram Panchayat of village Mawaiya. He claims that in the examination of High School, he had obtained more marks in Hindi and Arithmetic as compared to the petitioner which were relevant and were more useful in comparison for the said post. He has also pleaded that he was found better than the petitioner in consideration of the other requisite conditions.

4. The petitioner filed his rejoinder to the reply filed by the respondents by reiterating his pleas in the petition. In addition, he has also reproduced the directions given by Director General, Post, New Delhi through letter dated 10.5.1991 reproducing the same from Swami's Compilation of Service Rules for E.D. Staff in Postal

department specifying about the evaluation of marks as an essential condition besides financial status.

5. After hearing the learned counsel, we find that no distinguishable difference could be shown between the criteria assessed while comparing the petitioner and respondent no.3, apart from the fact that respondent no.3 had good certificates from the local persons of the village including that of Pradhan, Gram Panchayat and that he was a social worker. The learned counsel for the petitioner has mainly relied upon the marks obtained by the petitioner in the High School which were 228 as shown by Annexure A-2 whereas the respondent no 3 had 206 in the same examination though passed a year later. We have seen the annexure A-5, the letter through which names of the applicants were sponsored and condition no.3 very clearly mentions that the minimum qualification for the said post is that the person should have passed 8th standard though preference could be given to the person, having additional qualification of being High School pass or some equivalent examination. It is more clear that the examination which made petitioner and respondent no.3 eligible for appointment to the post of E.D.B.P.M. is 8th standard. On this aspect herein below is reproduced the extract of letter dated 10.5.1991 issued by the Director General Posts, New Delhi through letter no.17-497/90 E.D. and Training as re-produced by the petitioner

himself in his rejoinder;

"The deciding factor for the selection of E.D.B.P.M./ E.D.S.P.M. should be the income and property and not the marks, has been examined thread-bare but cannot be agreed to as this will introduce an element of competitiveness in the matter of possession of property and earning of income for determining the merit of candidates for appointment as E.D.Aagents. Proof of financial status is not only subject to manipulation, but is also detrimental to merit. When the Constitution of India guarantees equal opportunity to all for their advancement, the reasonable course would be to offer ED appointments to the person, who secured maximum marks in the Examination which made him eligible for the appointment provided the candidate has the prescribed, minimum level of Property and income so that he has adequate means of livelihood apart from the ED Allowance."(emphasis given is ours).

6. It is, thus, clear that person who secured maximum marks in the examination of 8th standard, which makes them eligible for appointment to the said post was to be given preference. This aspect was also considered by Chandigarh Bench circuit at Shimla ~~decided~~ in the case of Tubinder Kumar Vs. Union of India & Others as reported in 1994(2) A.T. Judgements, page 452 and placing reliance on the same letter, It was held that the person ~~should~~ secured maximum marks in the examination which made him eligible for appointment to the

said post should be preferred, provided the other conditions laid down, were fulfilled. We find ourselves in respectfull agreement with the views as it is only implementing the instructions issued by the D.G.(Post). Since validity of such instruction is not inquestioned, the present petition is also to abide by the same instructions.

7. The petitioner has been banking upon only his getting ~~the~~ higher marks in Matriculation examination than respondent no.3. He has not placed anything on the record to show that he had obtained ~~the~~ better marks than respondent no.3 in 8th standard, which is the examination which had made both of them eligible for the said post. In absence of evidence on this aspect and respondent no.3 having been found better than the petitioner on all aspects by the respondents, no interference is called for by this Tribunal in the order, appointing respondent no.3.

8. For the foregoing reasons, the petition is dismissed. The parties are, however, left to bear their own costs.

/M.M./

J. Anil Kumar
Member(J)

W.L.
Member(A)