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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF DECEMBER, 2001

Original Application No.947 of 1993

CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

Vinod Kumar Yadav, a/a 24 years,  
S/o Sri gaya prasad Yadav, R/o  
Village Seura, P.O. Seura Gulzarganj,  
district Jaunpur.

... Applicant

(By Adv: Shri K.C.Sinha)

Versus

1. Union of India through the Secretary  
Department of Posts  
Government of India,  
New Delhi.
2. The Supdt. of Post Offices  
Jaunpur.
3. Smt. Rekha Devi, W/o  
Sri rakesh Kumar, Vill.&P.O. Seura,  
Sub.P.O.Gulzarganj, district Jaunpur.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R (Oral)

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

By this OA u/s 19 of A.T.Act 1985 applicant has prayed for a direction to cancel the appointment of respondent no.3 as EDBPM Village Seura Gulzarganj, District Jaunpur.

The facts in short, giving rise to this OA are that post of EDBPM of Post office Seura had fallen vacant and the names were requisitioned from the Employment Exchange. As usual proceedings took place in which applicant was selected for appointment. He joined the post on 11.7.1991. However, his services were terminated by order dated 30.10.1991 under Rule 6 of ED Agents(Conduct & Service) Rules 1964. The applicant challenged the order dated 30.10.1991 by filing OA No.1050/91 before this Tribunal.

This OA was disposed of by order dated 14.1.1993. The operative part of the order is being reproduced here:

"Accordingly, the order by which the appointment of respondents are directed to reconsider the case of the aforesaid five candidates for appointment and the applicant's case shall also be considered on merit and in case it is found that the applicant is more suitable candidate, he will be given appointment otherwise one who will be considered to be the best candidate, will be given appointment. However, it will be taken into account that at the earlier stages, the applicant was considered to be the best candidate. Let selection process be completed within six weeks from the date of communication of this order. In the meantime, in view of the interim order, passed by this Tribunal, it is expected that the respondents can be allowed the above candidate to continue and in case any candidate has not filed any certificate earlier, he will be allowed to file even now. With these observations, the application stands disposed of finally. No order as to costs."

....."

The aforesaid order was challenged before the Hon'ble Supreme Court in SLP.No.4396/93 which was dismissed on 30.4.1993. Thus the order of this Tribunal became final.

As directed by this Tribunal the respondents reconsidered the claim of the five candidates for appointment and selected respondent no.3 for appointment, aggrieved by the selection and appointment as <sup>of respondent no.3</sup> ~~EDBPM~~, this OA has been filed.

Shri K.C.Sinha learned counsel for the applicant has challenged the order on the ground that the agricultural property which were purchased by the respondent no.3 by a sale deed dated 27.4.1991 could not be taken into consideration as the mutation in favour of respondent no.3 was granted after the 'Cut off' date namely 7.6.1991. It is submitted that as the mutation in favour of respondent no.3 was granted subsequently her candidature could not be considered for appointment as EDBPM. However, in our opinion, the legal position as stated by Sri Sinha is not applicable in the present case. Sale deed continues to be the document of title even for mutation has not been granted on the basis of the same. It may take some time in obtaining mutation but unless the validity and legality of the sale deed is questioned it could not be said that respondent no.3 has no title over the property. Purpose of mutation under U.P.Land Revenue Act 1901 is only for the purpose of fixing ~~physical~~ liability to pay the land revenue. Even if it is granted after some time, it cannot effect the title. Thus the contention of learned counsel for the applicant cannot be accepted.

There is yet another aspect of the case. This Tribunal vide order dated 14.1.1993 left it open that in case any candidate has not filed any certificate earlier, he will be allowed to file even now. This direction has become final. Thus the effect of the 'cut off' date was taken away. If the mutation order was not filed by the respondent no.3, as it was passed on 28.3.1992 in her favour, it could be produced subsequently in view of the direction of this Tribunal. For this reason also the objection raised by the learned counsel has no substance. It is not disputed, <sup>that</sup> but for this dispute about the title over the land purchased by respondent no.3, she was better

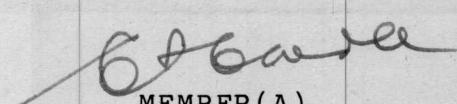
candidate on the basis of the academic qualification essential for a candidate for the post of EDBPM. Her percentage in High school examination was better than the applicant. In these circumstances, the selection and appointment of respondent no.3 does not suffer from any error of law.

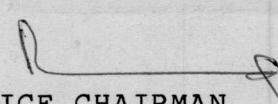
Shri K.C.Sinha at the end submitted that this applicant was at one point of time selected for the post and this Tribunal directed that his earlier selection shall also be taken into account but this direction has not been followed.

Shri Amit Sthalekar learned counsel for the respondents has submitted that so far as the present post is concerned, the selection has been made strictly in accordance with rules and on account of the earlier selection no weightage could be attached to the applicant. However, it is open for him to apply for appointment against any other vacant post of EDBPM or any other post of ED category.

We have considered the submissions of counsel for the parties. We give liberty to the applicant to make an application before Respondent no.2 Superintendent Post Offices Jaunpur for accommodating applicant against any other ED post. If such a representation is filed, it shall be considered sympathetically and expeditiously.

Subject to aforesaid observation this OA is dismissed. There will be no order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 6.12.2001

Uv/