

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

Original Application No. 478 of 2002.

this the 27th day of May 2004.

HON'BLE MR D.C. VERMA, VICE CHAIRMAN
HON'BLE MR D.R. TIWARI, MEMBER (A)

Jagdish prasad Mishra, S/o Sri Shiv Bahadur Misra, R/o
Village -Bigahana Post Bigahana (Sirsa), District
Allahabad.

Applicant.

By Advocate : Sri Anand Kumar

Versus.

1. union of India through the postmaster General,
Allahabad Region, Allahabad.
2. The Director of postal Services, Allahabad
Region, Allahabad.
3. Sri R.G. Varma, Senior Supdt. of post Offices,
Allahabad Region, Allahabad.
4. Sri Shesh Mani, S/o late Ram Nath, working
as Branch postmaster, Bigahana (Sirsa),
District - Allahabad.

Respondents.

By Advocate : Sri A. Tripathi.

O R D E R

PER D.C. VERMA, VICE CHAIRMAN.

By this O.A., the applicant has prayed for
quashing of the letter of appointment dated 27.6.2001
issued in favour of respondent no.4 appointing him on
the post of Extra Departmental Branch post Master (in
short EDBPM) Bigahana (Sirsa), District Allahabad. The
other prayer is that the respondents be directed to
appoint the applicant on the said post.



2. The facts, in brief, is that ^{for} the vacant post of EDBPM, a notification dated 6.4.1998 was issued and applications were invited. The applicant and the respondent no.4 alongwith others were considered and thereafter the respondent no.4 was given appointment.

3. The O.A. has been filed to challenge the appointment of the respondent no.4 on the ground that the respondent no.4 has no house and has no landed property in the village and the applicant has two names one is Shesh Mani and other is Shiv Mani. Under the name of Shiv Mani, he has applied for the post in another post office.

4. The counsel for the parties have been heard. The learned counsel for the applicant has submitted that in view of the notification issued inviting applications for the post, candidate is required to have landed property in the village and independent source of income. Attention is also drawn towards the circular issued by the Department of Posts on 6.12.1993 on the point mentioned above.

5. The learned counsel for the respondents has, on the other hand, placed reliance on Full Bench decision of this Tribunal in the case of H. Lakshmana & Ors. Vs. Supdt. of Post Office Bellary & Ors. reported in 2003 (1) ATJ 277 and another Division Bench case decided by Punjab & Haryana High Court in the case of Karam Singh Vs. C.A.T. reported in 2003 (1) ATJ 328. Both the decisions have been considered.

6. In Full Bench decision in the case of H. Lakshmana & Ors (supra) the circular dated 6.12.1993 issued by the department has also been considered and thereafter it has been held that for appointment to the post of EDBPM the possessing of adequate

means of livelihood is neither an absolute condition, nor is a preferential condition. The Full Bench was faced with the various decisions, some of which had taken a view that the possessing the adequate means of livelihood is not an absolute condition and other view was that it was only a preferential qualification. The Full Bench considered the recruitment rules for appointment to the post of EDBPM and thereafter held that the condition imposed pertaining to adequate means of livelihood in the circular dated 6.12.1993 is invalid. It was also held that the possessing the adequate means of livelihood is neither an absolute condition requiring to be considered for the post of EDBPM.

7. In the other case of Karam Singh (supra) dismissing the writ petition filed against the CAT's order. The Punjab & Haryana High Court held that the rules for appointment to the post of EDBPM require that such appointment should be made on the basis of academic merit i.e. the marks obtained in the Matriculation examination and it is not a pre-condition for appointment that a person who stood first in merit has the suitable accommodation for running the agency prior to his appointment/selection.

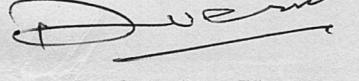
8. Thus, in view of the two decisions discussed above, both the grounds taken to challenge the appointment of the respondent no.4 have no merit.

9. On the third point, the learned counsel for the respondents submitted that the respondent no.4 are two brothers, one is Shesh Mani and other is Shiv Mani and the applicant has wrongly tried to make-out an issue which has no basis. We are also convinced that the issue raised on the point has no merit.

10. It is not disputed during the course of hearing that the marks obtained by the respondent no.4 namely Shesh Mani in the High School Examination is higher than the applicant. The respondent no.4 secured 54.83% marks whereas the applicant secured only 44.6% marks. Thus, in order of merit, the name of the respondent no.4 appears at sl. no.1, ~~then the name of Jayase Lal would come~~. The name of Raj Kumar who secured 46.33% marks and the name of the applicant would come at sl. no.4 i.e. at the bottom that he has secured only 44.6% marks.

11. Considering the facts and circumstances of the case, we are of view that the O.A. is devoid of merit hence it is to be dismissed. The O.A. is dismissed. Costs easy.


MEMBER (A)


VICE CHAIRMAN

GIRISH/-