

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

(THIS THE 24th DAY OF March 2011)

Hon'ble Dr.K.B.S. Rajan, Member (J)
Hon'ble Mr. S.N.Shukla, Member (A)

Original Application No.1527 of 2003
(U/S 19, Administrative Tribunal Act, 1985)

Chhedi Lal Chaurasia,
Son of Late Panchu Ram
R/o Vill. & Post Murara,
Tehsil Kerakat, District Jaunpur

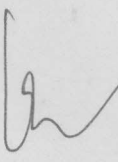
.....Applicant

Present for Applicant: Shri Ashish Srivastava, Advocate

Versus

1. Chief Post Master General,
U.P. Circle, Lucknow.
2. Union of India through
The Secretary, Ministry of Communication
Department of Posts, Dak Bhawan,
New Delhi.
3. Post Master General,
Allahabad.
4. Superintendent of Post Offices,
Jaunpur Division, Jaunpur
5. Sub-Divisional Inspector
(Post Offices), Kerakat
District Jaunpur.
6. Sri Arvind Kumar Yadav, son of Sri Gaya
Prasad Yadav, R/o Vill. Murtajabad, Tehsil
Kerakat, District Jaunpur
Presently residing at Brahmanpur (Sarawan),
Tehsil Kerakat, district Jaunpur, posted as
Gramin Dak Sewak Mail Deliverer/Mail
Carrier in Post Office Murar, Tehsil Kerakat,
District Jaunpur.

.....Respondents

 **Present for Applicant: Shri R. K. Srivastava, Advocate**

ORDER**(Delivered by Dr.K.B.S. Rajan, Member (J))**

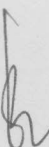
The case of the applicant, as spelt out in his O.A. is as hereinafter mentioned: For appointment of GDS MD/MC, the residence in the delivery jurisdiction of the post office plays a dominant role and the educational qualification plays, the role only for consideration of eligibility. The merit of qualification has nothing to do so far the appointment of GDS MD/MC is concerned; that is why a specific provision has been made, as referred in paragraph no. 4(1) of this original application. The candidate must be inhabitant of the village where the postal articles may be delivered. The applicant, a resident of village and P.O. Murara, Tehsil Kerakat, Dist. Jaunpur, U.P., where a post of GDS MD/MC fell vacant was an aspirant to this post. He has secured second division in High School examination after obtaining 350 marks out of 600, i.e. above 58%. The respondent no.5 is not the resident of either of the village which have been mentioned in requisition dated 10.5.2002. The applicant also came to know that the respondent no.5 has filed a forged document regarding his residence, showing that he is a resident of village Murara (Azad Nagar). The Voter list of village Brahmanpur (Sorawan) Annexure A-9 reflects the name of respondent no.5 at Sl.No.283. The respondent no.5 could obtain the

appointment by playing fraud and showing that he is residing temporarily on rent in the area of Azad Nagar in the house of Shri Bhagwan Das. Living on rent temporarily will not make the respondent no.5, eligible to be appointed as GDS MD/MC, Murara.

2. In view of the above facts mentioned, the applicant filed this O.A. and prayed for the following reliefs:-

- i) *This Hon'ble court may be pleased to set aside the Order dated 28.7.2003 probably appointing the Respondent no.5 on the post of GDS MD/MC, Branch Post Office, Murara.*
- ii) *A direction to the respondent No.3 & 4 may be issued to issue an appointment order in favour of applicant appointing him as GDS MD/MC, Branch post office, Murara, Tehsil Kerakat, district Jaunpur.*

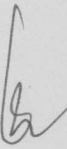
3. According to the private respondent, the name of the applicant is standing at Sl.No.3 in the merit list, while the name of the private respondent-deponent is standing at serial No.2 on the basis of High School marks obtained and on the basis of the aforesaid facts the private respondent was appointed on the said post. The marks obtained by the private respondent in High School are higher in comparison to that of the applicant and he has also fulfilled the other conditions of the advertisement. The appointment of GDS MD/MC is within the delivery jurisdiction of Branch Post Office Murara which is playing a dominating role And the same has



been fulfilled by the private respondent on the basis of G.O. dated 6.12.1993 and in the educational qualification the private respondent has also obtained higher marks. Preference may be given to those candidates whose "adequate means of livelihood" is derived from landed property or immovable assets if they are otherwise eligible for the appointment. While making selections for appointment to ED posts, permanent residence in the village/delivery jurisdiction of the ED Post Office need not be insisted upon as a pre condition for appointment. However, it should be laid down as a condition of appointment that any candidate who is selected, must before appointment to the post take up his residence in the village/delivery jurisdiction of the ED Post Office .

4. According to the Official Respondents, the post of GDS Mail Deliverer/Mail Carrier of Murara Branch office in account with Muftiganj Jaunpur fell vacant due to retirement of Ramji on 3.7.2002. The District Employment Officer Jaunpur was requested to sponsor the name of minimum three candidates vide SDI (P) Kerakat memo dated 105.2002. As such applications of 15 candidates were entertained. Ultimately Shri Manoj Kumar Rai was appointed on the post after necessary verifications vide memo dated 26.6.2002. The applicant lodged a complaint regarding forged mark-sheet of

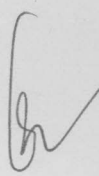
Shri Manoj Kumar Rai. After verification it was found that the mark sheet of High school of Shri Manoj Kumar Rai is forged. Thereafter the service of Manoj Kumar Rai was terminated vide memo dated 07.11.2002. Applicant filed an OA 97/02 before the Tribunal which was disposed of at the admission stage on 6.3.2002 with the direction to the respondent no.2 to decide the representation of the applicant if so filed within two months after giving opportunity of hearing. After giving opportunity to the applicant the post Master General Allahabad decided the case vide memo dated 01.5.2003. In pursuance of the PMG letter dated 01.5.2003, necessary verifications were made and ultimately Shri Arvind Kumar Yadav, the most suitable candidate was appointed on the post of GDS MD/MC vide memo dated 28.7.2003. Shri Arvind Kumar Yadav made his residence in the room provided by Shri Bhagwan Das, resident of village Azad Nagar Jaunpur which falls under the jurisdiction of Murara Branch office, Jaunpur. The residential condition for the recruitment of the post is that the candidate must take up his residence before appointment to the post in the village/delivery jurisdiction of the post office. The respondent no.5 has already submitted a consent letter of Shri Mahendra Kumar Gupta vide letter dated 31.5.2003 to reside in his house @50/- per month, which is in the jurisdiction of the post office.



5. In the rejoinder, the applicant submitted Formal inquiry/verification was done by Mr. Srivastava, A.S.P. Tour on 10.9.2003 which was subsequent to the appointment which is impermissible in view of the Rules and Law laid down by this Hon'ble Court. The respondent no.5 did not fulfill eligibility no.3 in accordance with the notification i.e. as on the date of the appointment.

6. Though liberty was given for filing of the written arguments, the same was not forthcoming. Hence, on the basis of the pleadings the case has been considered.

7. The admitted fact is that the private respondent has secured more marks than the applicant and thus, on merit the said private respondent stands in a better footing. The contention of the applicant is that mere merit alone cannot be the deciding factor, as the other condition of 'residence' in the place where the post office is situated should also be equally complied with and in so far as that condition is concerned, the respondent has not fulfilled the condition as his name does not figure in the voter list of that village and instead, figures in the list of some other village. It is this part of the requirement that the respondent also seeks to prove as fulfilled, by referring to the letter dated 06-12-1993 which reads as under:-



Sir,

I am directed to invite your kind attention to this office letters no. 43-84/80-Pen. Dated 30.1.81 and subsequent no. 45-22/71- STB.I/Pen 04.09.82, no. 41-461/87-PE-II dated 14.12.87 and no. 17-497/90-ED & TRG dated 10..91 wherein detailed instructions about the method of recruitment, income and property qualifications etc. have been laid down.

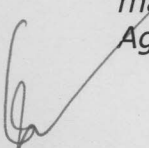
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3. Against the aforesaid backdrop, the whole matter has been reexamined in this office in its entirety. Having regard to all the relevant considerations including the judicial pronouncement proposals were formulated and placed before the postal services Board for its considerations/decision. The Postal Services Board, after careful deliberation, has decided as follows :-

(i) It is not necessary to qualify "adequate means of livelihood" However, it may be laid down that in the case of appointment of GD SUB Postmasters/Branch Postmasters, preference may be given to those candidates whose "adequate means of livelihood" is derived from landed property or immovable assets if they are otherwise eligible for the appointment. Heads of Circles may be asked to issue suitable instructions to the appointing authorities on these lines so that they could follow these while making appointment to the posts of EDSTN and GDS/MD. In respect of other EDMS the present "adequate means of livelihood" will held good.

(ii) The Board also decided that having regard to the judgment of the CAT, it may be clarified that while making selections for appointment to ED Posts, **permanent residence in the village/delivery jurisdiction of the ED Post Office need not be insisted upon as a pre-condition for appointment.** However, it should be laid down as a condition of appointment that any candidate who is selected, must before appointment to the post take up his residence in the village/delivery jurisdiction of the ED Post Office as the case may be. (emphasis supplied)

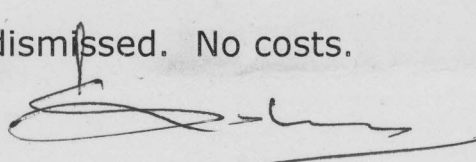
4. It is reiterated that the candidates concerned should have adequate means of independent livelihood and the income or property in the name of their guardians will not make them eligible for consideration for appointment as ED Agents in this department.



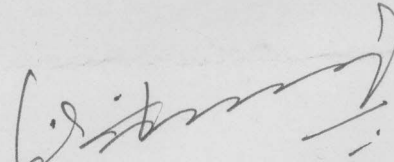
8. The above letter has been in vogue when the case of the applicant was under consideration. As such, the private respondent comes within the above said provisions inasmuch as he could secure the appointment at the relevant point of time, notwithstanding the fact that he was not a permanent resident prior to his appointment. Rules do not require that a person to be appointed should be permanent resident, though such permanent resident would be useful to identify the addressees. But the same is not a condition precedent, as could be seen from para 3 of the letter extracted above.

9. Admittedly, the private respondent has secured higher marks in the school examination and as such both the qualifications have been fulfilled by him. As such, the official respondents are not wrong in selecting the respondent.

10. The applicant has not, thus made out a case. Hence, the OA is dismissed. No costs.



(S.N. Shukla)
Member-A



(Dr. K.B.S. Rajan)
Member-J