

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A.No.400/93

Ahmedabad this the 11th day of July, 2000

Hon'ble Mr. V.Ramakrishnan, Vice Chairman
Hon'ble Mr. A.S.Sanghavi, Judicial Member

Bhadeja Sureshkumar Pragjibhai
Adult, Occ. Unemployed
Add: Vill Nesda (Khanpar)
Taluka Morbi, Dist. Rajkot.

Applicant

Advocate: Mr. B.B.Gogia
Versus

1. Union of India
Through: It's Secretary
Postal Department
Government of India, New Delhi.

2. The Sr. Superintendent of
Post Offices, Rajkot Division, Rajkot.

3. Shri Sureshbhai Jethabhai Parmar Adult, Occ. Service, residing at
Nesda, (Khanpar) Tal. Morbi, Dist. Rajkot

Respondents

Advocate: Mr. B.N. Doctor

ORDER(ORAL)

Per Hon'ble Mr. V.Ramakrishnan, Vice Chairman:

Heard Mr. Gogia for the applicant and Mr. Doctor for the respondents..

2. The applicant is aggrieved by the selection of Respondent No.3 to the post of EDBPM at village ~~Nesda~~ in Morbi taluka of Rajkot District. He has contended that the appointment of the Respondent No.3 as Branch Post Master as illegal, ineffective and also contends that Rule 7 of the relevant rules which gives

preference to S.C./S.T. should be quashed and struck down.

3. Mr. Gogia for the applicant says that the applicant has got more marks but he was not appointed as the department took the view that he did not have adequate means of livelihood. He has also prayed for a direction that the provision giving preference to SC/ST and also rules prescribing the requirement of adequate means of livelihood should be held as illegal and void. The applicant in his application had brought out that he has got agriculture land and also states that he was employed in some unit.

The respondents had taken the view that he was not having adequate means of livelihood. Mr. Gogia says that the applicant was working in some unit, but it was not possible to establish that he was actually engaged in some units from which he had been getting some salary. As the applicant has secured more marks he has a better claim for appointment as compared to Respondent No.3. He also brings out that in the statement prepared by the department a copy of which is at Annexure R-3 there is no specific provision to indicate the requirement of adequate means of livelihood. He also says that in the column against adequate means of livelihood, nothing has been shown against Respondent No.3. Mr. Gogia contends that this would indicate that Respondent No.3 did not have adequate means of livelihood and should not have been appointed.

4. Mr. Doctor for the respondents resists the O.A. He says that the applicant had made a statement in his application that he was unemployed but had ^{at the same time} claimed that he worked at various units. As regards his contention that he was working in a private Unit, he has not produced any written documents in support of his contention. He has also claimed to have worked in two factories. An inquiry was made and it was found that the applicant had never served in those two firms. The applicant has made a statement that he had worked in a unit but that unit has been closed since 1.10.92. There was also a letter from the applicant that he was doing technical job and if he would be taken up as EDBPM, he would leave that job when in actual fact the employee was doing no job on the date of his application. The applicant also has not produced any material in support of his claim that he was drawing any income from agricultural property. Mr. Doctor says that the respondent did not find the applicant fit to be engaged in view of the false statement made by him.

Mr. Doctor also brings out that the Respondent No.3 was appointed only on selection among eligible candidates and not because he belonged to S.C. but because he fulfilled the eligibility conditions and he was the best candidate. He says that the assumption by Mr. Gogi that Respondent No. 3 did not have adequate means of livelihood is not correct as Annexure R-3 is not a comparative statement.

Mr. Doctor says that this is a part time job and not a whole time job and that the candidate should have some means to support himself as he cannot depend solely on the income as EDBPM.

5. We have considered the contentions of both counsel. We find that the applicant had made a statement that he drew some income from property and has also proceeded to claim that he was employed in various units. On inquiry it was found that the statement that he was working in some electronics company was false. He also claimed that he was working in some unit which was found to be closed. The applicant has not produced any proof of his having working in electronic company as well as the unit which was closed at the period when he claimed to have worked there in. The applicant has not offered any explanation as to why he could not produce any material in support of his contention that he worked in some factories/company and that he was employed in various firms from which he has got some income. Obviously he could have got some certificates or he could have got statement from his co-workers that he was actually employed in some firms. The inquiry shows that at the relevant time he was not employed anywhere. The department inquired into the claims of the applicant but found that they were false and that the applicant was not fit for employment on account of the false statements made by him. In the circumstances denying him job as EDBPM cannot be taken to be arbitrary.

We also note the submission of the respondents that Respondent No.3 was selected as he was considered the best among the eligible candidates and not because he belonged to the Scheduled Caste. We also do not see any merit to the

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challenge to the requirement to have adequate means of livelihood. The job of EDBPM is part time job and he has to have alternative means of income in addition ¹⁵ to this occupation. The applicant could not establish that he possessed adequate means of livelihood and the department's conclusion that he was unfit for the post of EDBPM cannot be held to be arbitrary. In the light of the above the O.A. is devoid of merit and we dismiss the same. with no orders as to costs.



(A.S.Sanghavi)
Member (J)



(V.Ramakrishnan)
Vice Chairman

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MR S. P. Bhudeja

VERSUS

U-O-I. E. O. S.

RESPONDENT (s)

I N D E X - S H E E T

Certified that the file is complete in all respects.

plus 420

Signature of S.O. (J)

Ans

Signature of Dealing Hand.