

9

Date of decision : September, 12, 1990.

- Versus -

Union of India others Respondents

For the Respondents : Mr. T. Dalei, Learned Standing Counsel for the Central Government.

THE HON'BLE MR. B.R.PATEL, VICE-CHAIRMAN

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes.

:2:

J U D G M E N T

N.SENGUPTA, MEMBER (J), In this application the applicant seeks to challenge the selection of Respondent No.3 as the Extra Departmental Branch Post Master (E.D.B.P.M.) of Pimpudi Branch Post Office.

2. All that ^{need} ~~has~~ been stated about the facts is that a requisition was sent to the employment Exchange Officer at Kendrapara on 15.3.1988 to sponsor names for appointment of Extra Departmental Branch Post Master at Pimpudi. Admittedly, the Employment Officer sent seven names out of which five did not qualify and the remaining two i.e. Applicant and Respondent No.3 were to be considered. After examining the different aspects, the Respondent No.2 appointed Respondent No.3 as E.D.B.P.M. of Pimpudi Branch Post Office. The applicant challenges this appointment of Respondent Nos. on the ground that Respondent No.3 is not a permanent resident of the Post village, but he is a man belonging to ('Tarasa'. Respondent Nos. 1 and 2 have filed a reply to the application and Respondent No.3 has not appeared. Respondent Nos.1 and 2 have stated that Respondent No.3 produced income certificate of Rs. 31,000/- from agricultural lands measuring A3.65 and that though the applicant filed an income certificate

Member Secy 15/9

of Rs. 33000/-, ~~the~~ extent of agricultural lands said to be owned by her was AD.64 only. Respondent No.3 is more qualified than the applicant. Taking these facts into account, Respondent No.3 was selected for appointment .

3. We have heard Mr. S.K.Nayak learned Counsel for the applicant and Mr. T.Dalai learned Additional Standing Counsel (Central) and perused the different Annexures- Today on behalf of the applicant a xerox copy of document of ~~set~~^{sale} has been filed, though filing of the document is rather late, we would refer to it. Mr. Nayak has contended that the applicant is not a permanent resident~~ed~~ of the post village at Pimpudi and in this connection he has invited our attention to the certified~~ed~~ copy of a Voters' list of 1983 which is made Annexure-X to the application. He has also sought to rely ~~from~~^{on} Annexure-R/10 to the counter filed by Respondent, No.1 and 2. In Annexure-X, which is a certified~~ed~~ copy of a voter list ~~of~~ the year 1983, the name of Respondent No.3 has been shown as a voter at Tarasa. In Annexure-R/10 the Superintendent of Post Offices Cuttack North Division asked ~~to~~^{the} Sub-divisional Inspector (Posts) to make verification whether Respondent No.3 had a house in the post village ~~in Puri~~^{Pimpudi} and whether he ~~is~~ permanently resided in that village. Mr. Nayak has contended that according to Rules the enquiry must have preceded the selection not succeeded it therefore, the

Handwritten:
Nayak
12/7/90

:4:

entire process of selection of Respondent No.3 for appointment as E.D.B.P.M. at Pimpudi was vitiated. Annexure-R/10 is dated 8.7.1988 the Sub-Divisional Inspector of Posts, Patamundai gave his report, copy of which is at Annexure-R/11 to the counter and that is dated 20th July, 1988. In that report the Sub-Divisional Inspector stated that on enquiry he learned that Respondent No.3 with his father was living at Tarasa prior to 1975 and thereafter he left Tarasa village and lived at ^{Pimpudi} ~~Puri~~. Mr. Nayak has contended that in the face of Annexure -X, which is a voter list of 1983, this report could not be accepted. We ^{need} ~~could~~ not discuss much about This contention in view of Annexure-R/16 which is a copy of Voters' list of 1983 and this shows that the applicant was registered as a voter of village Pimpudi. Thus, it would be seen that the Respondent No.3 was shown as a voter both at Pimpudi as well as at Tarasa, therefore, not much can be made by the applicant out of Annexure-X.

4. Mr. Nayak the Learned Counsel for the applicant has contended that as the Rules required that the EDBPM must be a permanent resident of the post village and as the certificate issued by Tahasildar stated that the applicant ordinarily resided at Pimpudi, the requirement of residential qualification cannot be said to have fulfilled. The dictionary meaning of "permanent" is "remaining or intended to remain indefinitely". When a person resides at a place for sufficient long time and there is no allegation that he would be ^{leaving} ~~living~~ that place, it has to be said that he lives permanently at that place.

Handwritten signature and date:
12/9

5. It is not for this Tribunal to act ^{as a} selecting authority, its function is confined to examine whether the selection was made against Rules or on extraneous consideration, neither of which the applicant has been able to ^{prove} ~~true~~. Accordingly, the application stand rejected but without costs.

R. S. M.
12.9.90
.....
VICE-CHAIRMAN



M. S. S.
12.9.90
.....
MEMBER (JUDICIAL)