

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

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Date of order : 19.09.1997.

O.A.No. 32/1992

Sailendra Nath Jena , Village - Bansidiha Samil Barkand,
P.S. Morada, District - Mayurbhanj.

..... Applicant

Versus

1. Union of India, represented through Chief Postmaster General,
Orissa Circle, Bhubaneswar.
2. Superintendent of Post Offices, Mayurbhanj Division, Baripada.
3. Santosh Kumar Paul S/o Rama Chandra Paul, Village/P.O.
Bansidiha Samil Barkand, P.S. Morada, District - Mayurbhanj.

..... Respondents

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE CHAIRMAN
THE HONOURABLE MR. A.K. MISRA, JUDICIAL MEMBER

Present :

For the Applicant	:	Mr.D.P.Dhalsamant
For the Respondents No.1 & 2.	:	Mr.A.K.Misra
For the Respondent No.3	:	None present

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HONOURABLE MR .A.K.MISRA :

The Applicant has filed this O.A. with the prayer that the impugned order of appointment passed by the respondent No.2, be quashed and the applicant be declared to have been selected for appointment. By way of an interim relief, the applicant had prayed for staying the implementation of the order Annex.A-1 dated 26.12.1991.

2. Notice of this O.A. was given to the other parties who have filed their Counter.

3. We have heard the learned counsels for the parties and gone through the record.

4. The Respondents-department in order to fill in the post of of Extra Departmental Branch Postmaster (E.D.B.P.M.), Barkand B.O. in account with Moroda S.O., requested the Employment Exchange to sponsore candidates. On failure to sponsore sufficient number of candidates, applications from the aspirants were invited by way of a public notice. The last Notification in this series is Annex.R-8. The applicant and respondent No.3 and five other candidates submitted their applications with requisities to the concerned authorities. Out of these seven candidates, application of two candidates were rejected because they did not belong to main post village. Applications of three candidates were not considered because they had not submitted own income certificate from the revenue authority and it was found that they had not

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main source of income. Thereafter, the applicant and respondent No.3 remained in the fray. Ultimately, respondent No.3 was found to have satisfied all the relevant conditions under the rules and was, therefore, given appointment by the respondents as E.D.B.P.M., which is under challenge.

5. The Applicant in his own application, has stated that he submitted all documents required as per the Notification but could not submit Income Certificate, as the same was not granted by the Tehsildar concerned. The main condition for appointment of E.D.B.P.M. is that besides minimum educational qualification the candidate should have adequate means of livelihood of his own. The Department relies on the certificate issued by the Revenue Authorities on this count. In this case, the respondents have relied upon the Certificate issued to respondent No.3 by the Revenue Authority and considered him a fit person to appoint as E.D.B.P.M. as he had his own independent income.

6. In this case, it was argued by the learned counsel for the applicant that applicant is better qualified than the respondent No.3. Applicant is a Graduate whereas the respondent No.3 is only a matriculate. It has also been argued by the learned counsel that even in matriculation examination, the applicant had secured better marks than respondent No.3 and his overall percentage was much higher than that of respondent No.3. But the Department ignored the same while making appointment.

7. We have considered this argument. The respondent No.3 possesses the minimum educational qualification which is

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required for appointment of E.D.B.P.M. It was not on the point of qualification that respondent No.3 was appointed and candidature of applicant was rejected. The candidature of applicant was rejected on the ground that he had no income of his own. He did not furnish any Income Certificate duly granted by the Revenue Authorities and was found to possess no independent income. Therefore, this argument does not hold good.

8. The learned counsel for applicant has argued that about the source of Income, the Department should have made an inquiry and should not have solely relied on Income Certificate granted by the Revenue Authorities.

9. We have considered this point. In our opinion, Certificate of Income duly granted by the concerning Revenue Authorities is demanded to avoid independent inquiry in respect of source of Income. The Revenue Authorities give such Certificate on the basis of agricultural land belonging to the applicant. Agricultural land is continuing source of income. Any other source of income may come to an end even soon after the appointment. In the instant case, the applicant is said to be in possession of agricultural land but I find that applicant's contention that he possesses land etc. is not supported by any documentary proof. Moreover, when the applicant has not been able to produce any Income Certificate granted by the Tehsildar, it can safely be concluded that at that point of time the applicant was not in possession of any agricultural land. Therefore, this argument also does not help the applicant.

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10. The Ruling cited by the learned counsel for the applicant is distinguishable on facts. The applicant has not stated that he has got joint property with some other coparceners. He has claimed independent property by way of transfer which was not mutated in his name. Till an agricultural land is mutated in the name of the concerned person, it cannot be said that the land belongs to such person.

11. From the above discussion, we come to the conclusion that applicant has not been able to prove that the appointment of Respondent No. 3 was against the Rules. The Original Application deserves to be dismissed.

12. The Original Application is, therefore, dismissed with no order as to costs.

23/9/97
(A.K.MISRA)
Member (Judicial)

Somnath Som
(SOMNATH SOM)
Vice Chairman

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