

O.A. NO. 707 OF 2002

Order dated 23rd June, 2004.

This application has been filed by Shri Abhas Ranjan Rath under section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:-

"It is, therefore, humbly prayed that the Hon'ble Tribunal may kindly be pleased to direct the Respondent No-2 to cancel the selection of the candidate, who do not fulfil the resident qualification and failed to provide rent free accommodation and further be pleased to direct the Respondent No-2 to select any other candidate of the said list of candidate, amongst whom the applicant is a candidate".

It is submitted by the Applicant that he is an unemployed graduate and a permanent resident of Village/Post: Pahanga in the District of Cuttack. A post of Extra Departmental Branch Post Master( in short 'EDBPM', now designated as GDSBPM) was proposed to be filled up and names of candidates were called from the Employment Exchange. Since the name of the Applicant was not sponsored by the Employment Exchange, he approached this Tribunal in O.A.No.110/97 and this Tribunal by its order dated 21.2.97, rendered in the said O.A. directed the Respondents to consider the name of the Applicant for the post of EDBPM/GDSBPM of Pahanga Branch Post Office alongwith other candidates

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sponsored by the Employment Exchange. Applicant accordingly applied for the said post of EDBPM/ GDSBPM. The claim of the Applicant is that the Respondents have prepared a panel of unsuitable candidates who do not fulfil the requisite qualifications for being appointed as EDBPM/GDSBPM. According to the Applicant, ~~since~~ the Applicant has fulfilled all the requisite qualifications, he should have been considered for appointment in preference to other candidates.

Respondents have filed a reply; in which it has been stated that the name of the Applicant was considered alongwith other candidates. However, the name of the Applicant was far below in the merit list. According to the Respondents, the appointment has to be given to the person who fulfills all the requisite qualifications and the basic criterias is to offer the appointment to the person who has secured the highest marks in the matriculation examination and one Shri D.K. Swain, who is at Sl. No. 2 in the checklist has secured the highest marks in the matriculation examination.

We have heard learned counsel for the parties and perused the materials placed on record.

*Concurred*

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The check-list of candidates annexed as Annexure-R/1 to the reply of the Respondents indicates that the Applicant's name finds place at Sl. No. 9 and he had secured only 39.06% of marks in the matriculation examination. There are several other candidates with higher percentage of marks. His name will not come even at Sl. Nos. 2 or 3. Therefore, even if he satisfies all the requisite conditions for being appointed as EDBPM/GDSBPM, he could not have been appointed in preference to persons having higher percentage of marks in the matriculation examination.

The Full Bench of this Tribunal in the case of Rana Ram Vs. Union of India and others -2004(1) ATJ, at page-1 have held as under:-

"The selection have to be made on the basis of the other qualifications minus the qualifications pertaining to immovable property. Thereafter, the person selected can be given reasonable time to submit proof of income/property as per rules/instructions on the subject and in case he fails to submit the same within a reasonable time, the offer can be given to the next eligible/selected candidate".

In view of the above dictum laid down by the Full Bench of this Tribunal, we find that the selection procedure adopted by the Respondents is in order. The Applicant having not secured the highest marks could not have been declared as selected candidate at Sl. No. 1. In case all other selected candidates fail to fulfil other conditions which are required for appointment as EDBPM/GDSBPM, the Applicant could be

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considered at that time alone.

For the reasons given herein before,  
this Original Application is considered without  
any merit and is dismissed accordingly; without  
any order as to costs.

~~Manohary~~  
(MANO RANJAN MOHANTY)  
MEMBER (JUDICIAL)

Ch. Enggny  
(R. K. UPADHYAYA)  
MEMBER (ADMINISTRATIVE)

Copy or order  
of 1.23/6/02 issued  
to the Counsel for  
both sides.

Upadhyay  
S.O.

M  
29/6/02