

In the Central Administrative Tribunal
Calcutta Bench

No.OA 873/96

Present : Hon'ble Mr. Justice G.L.Gupta, Vice Chairman
Hon'ble Mr.B.P.Singh, Member(A)

Uma Prasad Mazumdar

-Vs-

Union of India & Others (Posts)

For the applicant : Mr.N.Bhattacharjee
For the official res. : Mr.M.S.Banerjee
For the Pvt.Res. : Mr.M.K.Bondyopadhyay

Date of Judgement : 18.01.02.

ORDER

Mr.B.P.Singh :

In this OA, the applicant has challenged the legitimacy of selection of Shri Sasanka Sekhar Mondal (Respondent No.4) as Extra Departmental Branch Post Master, Meherpur EDBO. The case of the applicant is that pursuant to a Notification dated 9-2-96 he applied for the post of EDBPM of the aforesaid Branch Post Office along with all the necessary documents. He was called to attend the interview on 11-3-96. The applicant attended the said interview and produced all the requisite documents. However, he came to know that he was not selected for the post and instead Respondent No.4 was selected and given appointment to the said post.

2. According to applicant, he is the best candidate in the field having secured highest marks in the qualifying examination and he had also landed property in his own name. The deed, which he produced during the time of interview also shows that the property is in his name. A copy of the certificate issued by the BLRO, Patharpratima, South 24 Parganas to the said effect was also produced. It is stated that the applicant secured 491 marks in Secondary Examination,

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while respondent No.4 secured 460 marks. Thus, he was more meritorious candidate than Respondent No.4. It is further stated that a portion of the landed property was purchased jointly with his brother, though the registered deed was muted in the name of the applicant and the same was actually possessed by the applicant in his own name.

3. Being aggrieved by his non-selection, he has filed this application praying for cancellation of the appointment of Respondent No.4 as EDBPM of Meherpur Branch Post Office and for a direction to the official respondents to reconsider his case and to give him appointment to the said post.

4. The official respondents have contested the application by filing a written reply. It is admitted that the applicant secured higher marks than the respondent No.4. However, it is contended that the applicant did not produce all the relevant documents, particularly the certificate regarding the monthly income and deed of landed property in his own name. The applicant produced only his family income and joint property deed which were not the requisite documents. It is also stated that from the deeds produced by the applicant, it was found that the landed properties in question was in fact joint properties and the applicant was a co-sharer and none of the said properties solely belonged to the applicant. In other words, the contention of the official respondent was that though the applicant secured higher marks than the respondent No.4, he failed to produce any documents showing his personal income and sole ownership of any immovable property as per requirements.

5. Respondent No.4 has also contested the application by filing a separate reply in which he has stated that after the screening and after having been satisfied with the documents produced by him, the respondent authorities selected him for the post and he was appointed to the post vide appointment letter dated 1-7-96 and he has accordingly joined the said post.

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6. We have heard the learned counsel for the parties and perused the documents on record.

7. The learned counsel for the applicant has contended that the applicant being more meritorious candidate than respondent No.4, he ought to have been selected for the post. He also stated that the applicant had produced necessary documents regarding the ownership of landed property and therefore there was no reason for the respondent authorities to deny him the post. However, the respondent authorities ignoring the legitimate claim of the applicant has selected the respondent No.4 in an arbitrary and illegal manner. He has relied on a decision of the Tribunal dated 5-5-2000 in OA No.378 of 97 (Prasanta Kumar Naskar V. UOI)

8. The learned counsel for the official respondents contended that the applicant though secured higher marks than respondent No.4, he could not produce the relevant documents regarding his personal income and also ownership of landed property in his own name, which are the basic requirements for selection for the post of EDBPM and therefore, the applicant could not be considered for such appointment.

9. The learned counsel for the respondent No.4 has substantially adopted the arguments of the official respondents.

10. We have given our anxious consideration to the rival contentions. Admittedly the applicant secured higher marks than the respondent No.4. However, according to official respondents, he could not be selected for his failure to produce the requisite documents regarding personal income and possession of landed property in his own name.

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11. We have gone through the judgement of this Tribunal in OA 378/97 (Supra) referred to by the learned counsel for the applicant. That case was also in relation to selection and appointment of EDBPM. In the said case, the applicant secured higher marks than the person selected and he had also produced certificate regarding possession of landed property jointly with his brother. The Tribunal relying on the judgement of Hon'ble Apex Court in the case of 'Bali Ram Prasad V. U.O.I 1997(2) SCC 292 held that more meritorious candidate ought to have been selected. Regarding the ownership of property by the applicant jointly with his brother, it was observed by this Tribunal that in the Employment Notice there was no mention that the landed property must be in the name of the applicant alone and on that ground the OA was allowed and appointment of private respondent as EDBPM was cancelled.

12. From Annexure A1, which is the copy of the Employment Notice issued by the Supdt. of P.Os., South Presidency Dn., Baroipur, we find that it was made clear therein that the candidate must possess some landed property in his own name. It was also stated therein that in case of income from landed property, particulars of unincumbered immovable property should be stated in the application and a certificate from the local BLRO should be annexed with the application. From Annexure A2 dated 26-2-96, which is the call letter, we find that in this document also, the official respondent asked the candidates to produce the original deed and a duplicate copy regarding the landed property owned by the candidates in their own name and a certificate from the Tehsilder in this connection.

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13. From Annexure A3, which is the details of the particulars given by the applicant, it appears that against Sl.No.8, the applicant had mentioned that he had an income of Rs1400/- from tution and cultivation and against Col. No.9, he mentioned the details of the landed property. Annexure A4 is a certificate issued by the the Block Land Reform Officer, Patharpratima, South 24 Parganas. It appears that it was certified that Shri U.P.Mazumdar (applicant) had purchased certain land as specified therein through Registered deed. From Annexure A6, we find that it is the receipt of revenue deposited by the applicant in connection with the landed property.

14. It is, therefore, prima-facie apparent that the applicant has some landed property in his own name. However, the original deed has not been produced before us. We are, therefore, not in a position to verify the claim of the applicant regarding possession of landed property in his own name. The stand of the official respondent is that the document produced by the applicant did not prove that the ownership of the immovable property was solely in the name of the applicant and in fact, it was a joint property. The applicant in his application has not disputed that a portion of the land was purchased along with his brother though the same was muted in his name and a certificate was also issued by the BLRO to that effect.

15. So far as the merit of the applicant vis-a-vis, respondent No.4 is concerned, it is not disputed that the applicant is more meritorious than the respondent No.4. In the case of Bali Ram Prasad V. UOI (supra), the Hon'ble Apex Court has held that in the matter of appointment of EDBPM, more meritorious candidate ought to have been given preference.

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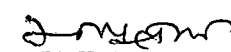
However, in that case, the appellant was denied appointment on the ground that his own relative was already in the employment as ED Agent which was a bar for employment of another member of the family. Hon'ble Supreme Court held that this was violative of Art.14 and that denial of appointment to more meritorious candidate on this ground was arbitrary and unjustified and observed that in view of much better academic record, the appellant should be appointed.

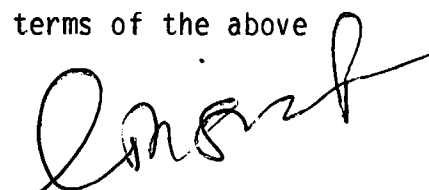
16. We find from the reply of respondent No.4 that by an order dated 1-7-96 he was appointed provisionally as EDBPM of Meherpur BPO. It is not clear from the reply of the official respondents or from that of the private respondent that the said appointment has since been finalised on regular basis.

17. In view of the above position we are of the opinion that the ends of justice will be met if we direct the official respondents to re-examine the matter and take a decision regarding the appointment of the applicant after proper verification of the certificates of ownership of landed property produced by him as mentioned above.

18. Accordingly, we dispose of this application with a direction to the applicant to submit a detailed representation enclosing therewith a copy of this order, along with all other necessary documents as available on the date of submission of original application to the Superintendent regarding ownership of landed property in his name, within a fortnight. The official respondents, particularly the respondent No.2 is directed to verify the said documents and take a decision in the light of observations made by us above and finalise the appointment on the post within 2 months from the date of receipt of the said representation.

19. The application is disposed of in terms of the above order. No orders as to costs.


(B.P. Singh)
Member(A)


(G.L. Gupta)
Vice Chairman