

In The Central Administrative Tribunal
Calcutta Bench

OA No.1120 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Swapan Kumar Halder

.... Applicant

- VS -

- 1) The Union of India, service through the Director General, post & Telecommunication Department, New Delhi.
- 2) The Chief of Post Master General, West Bengal Circle, Calcutta-12.
- 3) The Asstt. Postmaster General, Calcutta Region, Calcutta-12.
- 4) The Superintendent of Post Office, Barasat Division, P.O. Barasat, Dist: 24-parganas(N).
- 5) The post Master, Bengaen Post Office, P.O. Bengaen, Dist: 24-parganas(N).
- 6) Sri Biren Majumdar, s/o Sri Samhu Majumdar. Vill. Sitanathpur, P.S. Bengaen, 24-parganas.

.... Respondents

For the Applicant : Mr. A.N. Roy, Advocate

For the Respondents: Mr. B.K. Chatterjee, Advocate

Hears on : 15-3-2000

Date of Order : 28/03/2000

ORDER

G.S. MAINGI, AM

In this original application the applicant has challenged the selection of respondent No.6 (Shri Biren Majumdar) to the post of EDDA of Nakul Sub-Post Office ignoring his claim and has prayed for direction upon the official respondents to cancel the said appointment of respondent No.6 and to give him appointment to the said post in place of respondent No.6.

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2. The case of the applicant, in short, is that he belongs to SC Community and he has passed the Madhyamik Examination in Second Division. He also got his name registered after passing the Madhyamik Examination in the local Employment Exchange at Bangaon. In the month of June, 1996 the local Employment Exchange declared a vacancy for appointment to the post of E.D.D.A. (Extra Departmental Delivery Agent) for the sub-post Office at Nakful and the said post was stated to be reserved for SC candidates. The Employment Exchange thereafter invited applications from the eligible intending candidates having minimum eight pass qualification and accordingly the applicant along with other 11 candidates applied for the said post. Thereafter, on 8.7.1996 the applicant along with other 11 candidates were called for interview and the applicant attended the same. It is the averment of the applicant that his academic qualification was the best amongst the candidates interviewed and his performance as well was also the best. According to him, he stood first amongst the candidates. The applicant further stated that he met concerned Recruitment Inspector of post Office and he was assured that appointment letter would be issued very soon in his favour. Subsequently, the applicant came to know that the respondent No.6 Shri Biren Majumdar was appointed to the said post in supersession of the claim of the applicant. The applicant alleges that the said respondent No.6 has obtained this appointment in lieu of an amount of Rs.35,000/-. It is also his allegation that respondent No.6 being an inferior candidate to him, he ought not to have been selected by the official respondents. Thereafter, the applicant sent a letter through his lawyer dated 8.8.96 to the post Master, Headquarters, Barasat Division (Annexure-B to the application). In response to that letter the said post Master gave a reply to his lawyer stating that the complaint was forwarded to the appropriate authority for necessary action (Annexure-C to the application). The Employment Officer vide his letter dated 27.8.1996 informed the applicant that he had also referred the matter to the concerned authority. Having failed to get any justice from the respondent authorities the applicant has filed this application praying for the relief mentioned above.

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3. The official respondents have contested this application filing the written reply. It is their case that the post of EDDA, Nakful Branch Office in account with Bangaon Sub-Office was fallen vacant and an order was obtained from the higher authority to fill up the said post on 6.5.1996. Thereafter, a requisition notice was sent to the local Employment Officer, Bangaon on 14.5.96 for sponsoring names of intending candidates. The Employment Officer vide his letter dated 21.6.96 sent a list of 12 candidates for the said post. On receipt of such list, candidates were called for on 8.7.96 for verification of certificates/bio-data. On the said date 11 candidates appeared for the purpose of verification of their certificates and bio-data. On scrutinising all the documents and after observing all the formalities as per Rules, the Selection Committee found respondent No.6 to be the best candidate and accordingly, he was selected. Thereafter, appointment letter was also issued in favour of the respondent No.6. It is stated by the official respondents that the selection was made on verification of bio-data and other documents required and there was no provision for holding any interview for the purpose of selection to the post of EDDA and as such no interview was conducted as alleged by the applicant. It is also denied by the respondents that the applicant stood first in the interview. It is further stated that the applicant did not get highest marks amongst the candidates. It is stated in para 11 of the reply that the respondent No.6 secured higher marks than the applicant in the Madhyamik Examination. The official respondents have denied the allegation of the applicant that a sum of Rs.35,000/- was taken as bribe from the respondent No.6 to issue the appointment letter in his favour. The official respondents have, therefore, prayed for rejection of the application.

4. The applicant has filed a rejoinder to the reply. He has reiterated his allegation made in the O.A. and has also submitted a xerox copy of his marks sheet of Madhyamik Examination.



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5. We have heard Ld. Advocates for both the parties. The Ld. Advocate for the official respondents has produced the connected departmental files for our perusal. We have gone through the same.

6. The main contention of the applicant is that he secured higher marks amongst the candidates in the field. According to the mark-sheet attached to his rejoinder it is found that he secured total 479 marks out of 900 including the additional subject. It appears from the departmental file that the respondent No.6 obtained 436 marks out of 900 without additional subject. Therefore excluding the additional marks of 58 the applicant obtained only 421 marks out of 900 whereas the respondent No.6 obtained 436 marks. Therefore, it is clear that the respondent No.6 secured higher marks than the petitioner. It appears from the board sheet that there were other candidates who were graduates. But it appears that their cases were not considered. It is the case of the respondents that the requisition was sent to the Employment Exchange for sponsoring names who have passed class VIII standard. However, other candidates who were not selected are not before us. So we refrain from making any comments regarding their eligibility. It further appears that one complaint was received from certain person against the applicant. In such circumstances, the concerned selection authority selected the respondent No.6 as suitable and fit candidate for the said post. Accordingly, appointment letter was issued in favour of the respondent No.6. It is settled law that Tribunal cannot sit over the judgement of the Selection Committee and substitute ^{esp} its opinion unless there is some malafide or breach of rule as alleged. In the instant case so far as the marks in the Mahayamik Examination are concerned, it appears that the applicant secured lesser marks than the respondent No.6. Applicant also could not prove that the respondent No.6 had given an amount of Rs.35,000/- to some official in order to get the appointment. Applicant insisted that the post of EDDA was advertised for SC candidates. But the official respondents have stated that advertisement was for general candidates and that has been fully corroborated by the records produced by the official respondents. Applicant has also produced a marks sheet issued by the xerox copy of the West Bengal Board of Secondary Education for Mahayamik Examination, 1992 which is not attested by any authority and

it cannot be treated as genuine copy of the original mark-sheet. Xerox copy of certificate of Madhyamik Examination, 1992 as also produced by the applicants has also not been attested by any authority. In view of above, we are of the view that the application is mischievous. So, we are unable to dwell upon the allegations any further. In the result we find no merit in the application. Accordingly, application is dismissed. We refrain from imposing cost on the applicant as he belongs to scheduled caste community.

G. S. Maingi
28.3.2000.

(G. S. Maingi)
Member (A)

H. D. D. 28/3/2000
(D. Purkayastha)
Member (J)

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