

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH: :CALCUTTA

ORIGINAL APPLICATION NO.1495/96

TUESDAY, THE SIXTEENTH DAY OF MAY, 2000

SHRI S.K. GHOSAL ... MEMBER (A)  
SHRI P.C. KANNAN. ... MEMBER (J)

Sahidul Mondal .. Applicant

vs.

Union of India & Others. .. Respondents

Mr. Samir Ghosh Counsel for applicant

Mr. S.K. Dutta Counsel for Respondents

ORDER

Shri S.K. Ghosal. .. Member (A)

The applicant responded to a notification for appointment to the post of Extra Departmental Branch Post Master (EDBPM) of Maheshdanga post office in Burdwan division. The Senior Superintendent of Post Office, the 4th respondent in this OA had sent a requisition to the Burdwan Employment Exchange calling upon them to sponsor the names of candidates fulfilling certain eligibility conditions. The applicant's name came to be sponsored by the said Employment Exchange.

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2. The 4th respondent then asked the applicant vide his memo dated 19.8.96 seen as Annexure-A of the OA to appear for an interview on 30.8.96 along with an application form to be duly filled in by the applicant. A blank form of the application was sent along with the said memo. The applicant duly appeared for the interview. It is the case of the applicant that, he was not only duly selected as the most suitable candidate among the candidates sponsored by the Employment Exchange, but also that an appointment order was in the process of being issued in his favour and further that the respondents have subsequently withheld the issue of appointment order invalidly and illegally.

3. The main reliefs sought by the applicant are for a direction to the respondents to finalise the selection and to declare and publish the result in respect of the interview/selection held on 30.8.96 and further for a direction to the respondents to give him appointment to the post of EDBPM of Maheshdanga post office in pursuance of the said interview.

4. The respondents, on the other hand have pointed out that, the then Senior Superintendent of Post Office, who had conducted the interview and in the same process finalised the selection of the applicant

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for appointment to the post of EDBPM of Maheshdanga and ordered the issue of appointment order in his favour, was subsequently found to have contravened some of the instructions regulating the mode of recruitment of EDBPM. The defence of the respondents for not having finalised the selection and for not having issued the appointment letter in favour of the applicant, is essentially, that the said Senior Superintendent of Post Offices had apparently failed to ensure that there were at least three eligible candidates sponsored by the Employment Exchange, that the applicant did have a valid title to adequate immovable property and further that the applications, which had been received from working ED Agent for the said post was properly considered before it was summarily rejected. The learned counsel for the respondents has argued vigorously that when the successor Senior Superintendent of Post Offices was presented with a complaint from the staff union that the case of the working ED Agent had not been duly considered, he undertook a verification of the procedure and process adopted by his predecessor for the selection of the applicant and in ordering that an appointment letter be issued in his favour. On behalf of the respondents, it has been averred that as a



result of the verification, deficiencies that have been mentioned, came to light and that consequentially on the instructions of the superior officer, it was decided not to issue the appointment letter in favour of the applicant.

5. It is doubtless an inherent right of the Executive to initiate and complete action to correct the deficiencies which are noticed on the part of the hierarchy of officers lower down the line. The circumstances of the present case indicate that the superior officer, on the report of the successor Senior Superintendent of Post Offices, had agreed that the process of selection adopted by the earlier Senior Superintendent of Post Offices was not proper and regular and therefore, decided not to issue the appointment order in favour of the applicant as the culmination of that process.

6. However, here, we are also concerned with the rights of the applicant for consideration for appointment in public service. It is not denied by the respondents that the concerned Employment Exchange had in fact sponsored 3 candidates of which the applicant was one. It is a different matter that one of the three sponsored candidates, in his application submitted to the respondents, stated that he had no




landed property in his own name. The norms laid down by the Director General of Post Offices, that there should normally be at least three candidates sponsored by the Employment Exchange has apparently been complied with in this case. The learned counsel for the respondents, has, however, contended that in the context, a minimum of three candidates should be taken to mean a minimum of three eligible candidates and that one of them not having been found eligible on verification of the particulars furnished in the application, the Employment Exchange cannot be held to have complied with that requirement.

7. We are not convinced that the norm of at least three candidates being sponsored by the Employment Exchange has not been fulfilled here or that the said norm is strictly<sup>R</sup> mandatory legal requirement for the selection process. It cannot be said that failure to comply rigidly with that norm, would render the selection process invalid or illegal. These instructions or norms essentially serve the purpose of guidelines for the administrative officers at different levels of the hierarchy. In the present case, the Employment Exchange had in fact sponsored three candidates. But one of them was subsequently found not to have any immovable property in his own name. We do not find that this development can be considered as having vitiated the selection process

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irreparably. On this score, therefore, we are of the opinion that the selection process cannot be faulted by us.

8. We now consider the alleged irregularity in the matter of rejection of the application of a working ED Agent. It was rejected obviously for two reasons. One was that it was forwarded after the selection process had already been initiated and the date of interview communicated. The second reason that he had not scored marks as high as the applicant, whose application had already been received by the then Senior Superintendent, of Post Offices. The learned counsel for the respondents has brought to our notice that there were instructions that priority should be given to a working ED Agent for appointment as an EDBPM. We observe that ~~the~~ <sup>substantive</sup> ~~very~~ <sup>substantive</sup> concept of priority ~~within~~ <sup>itself</sup> the principle that all other criteria should be met and, based on such criteria, the candidates are found to be equal merit. But here on the plane of merits in terms of the marks obtained at the matriculation he was found to be lower than the applicant. Therefore, non-consideration of his case cannot be held as having affected prejudicially the rights of such working ED Agent. We are, therefore, hold that the rejection of the applications received from the working ED Agents whether was done for sound



and proper reasons. Further, we are of the considered view that it cannot be held that because of that rejection, the selection process which ended favourably for the applicant had been vitiated.

9. As regards the statement made in the reply that the applicant did not possess any immovable property in his name, we find that from the records submitted on behalf of the respondents, that this assertion is based on the note recorded by the successor Senior Superintendent of Post Offices. In that note, an apparent discrepancy was pointed out between the name of the beneficiary of the registered deed and the name of the applicant who had claimed in the application form that the said registered deed had created a legal right in his favour over a certain immovable property. The discrepancy, in effect, was between the name Sahidul Mondal and the name Sahidul Islam Mondal. We find that both the individuals have the same person as their father. Among the Muslims it is a common practice to attach names. Be that as it may, <sup>if so</sup> the respondents entertained any doubt as to the claim made by the applicant in his application based on the registered deed executed in his favour and felt that his ownership over immovable property was not



established, <sup>28</sup> ~~only because of this discrepancy~~ <sup>AS</sup> a quick verification could have been made by the respondents. The respondents did not choose to adopt any such rational course of action, even after his selection was made. We further observe that the respondents have not taken any other ground for not finally selecting the applicant and for not issuing the appointment order. Nor have they denied that the previous incumbent Senior Superintendent of Post Offices had after following the process of selection selected the applicant and ordered for the issue of the appointment letter in his favour.

10. We take note of the fact that since the present OA was filed, not only no appointment order has been issued in favour of the applicant but also that no attempt has been made by the respondents subsequently to call for application from candidates for the post, either as sponsored by the Employment Exchange or simultaneously notified locally. Because of such inaction on the part of the respondents, the applicant has become effectively dis-entitled for consideration for appointment in public service by now, other than the post of ED Agents for whom the age limit has been prescribed as 65 years. In our considered view, it would therefore be necessary to protect the right of the applicant for consideration for appointment in

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public service and in this context for consideration for appointment as an ED Agent including EDBPM.

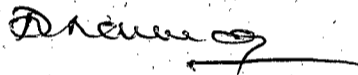
11. In order to meet the ends of justice, in the facts and circumstances of the present case that we have discussed above, we consider it appropriate to dispose it with the following directions:

- (a) The respondents shall re-notify the vacancy of EDBPM Maheshdanga post office stipulating the eligibility criteria as prescribed under the instructions regulating the method of recruitment of EDBPM;
- (b) Along with other candidates, who may be sponsored by the Employment Exchange, the applicant shall be considered for the purpose of selection. We further direct that the candidates to be sponsored by the Employment Exchange should be limited to those, who had already registered themselves by the time that the names of the three candidates including that of the applicant were sponsored.

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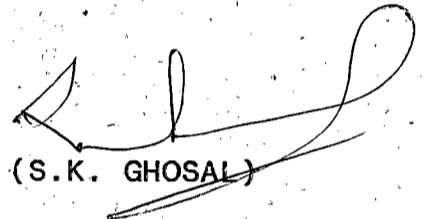
(c) Subject to satisfying other eligibility conditions and if he is found most meritorious, the respondents shall further consider for appointment to the post of EDBPM, Maheshdanga post office.

12. The above directions shall be carried out by the respondents within a period of 3 months from the date of receipt of copy of this order. No costs.



(P.C. KANNAN)

- MEMBER (J)



(S.K. GHOSAL)

MEMBER (A)

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