

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

Dated: - 19/4/2005

OA. No. 1511/96

PRESENT : HON. SHRI S. K. Malhotra, MEMBER (Admn.)

HON. SHRI G. Shanthappa, MEMBER (Judl.)

Monoranjan Naskar : Applicant

Vs.

Union of India, rep. by

1. Supdt. of Post Offices
South Presidency Division
at Baruipur, PO Baruipur
South 24 Pgs.

2. Sub Divnl. Inspector (Postal)
Bishnupur Sub Divn., PO Bishnupur
Dist. South 24 Pgs.

3. The Sub Post Master
Joka Sub Post Office, PO Joka
South 24 Pgs.

4. Branch Post Master
Amgachia Branch Post Office
Amgachia PO, PS Bishnupur
South 24 Pgs

5. Ashim Kumar Patra, s/o Late Satyapatra
Amgachia Branch Office & vill.
Amgachia
South 24 Pgs. : Respondents

For the Applicant : Mr. K. Sarkar, Counsel

For the respondents : Mr. S. P. Kar

ORDER

Hon. Shri G. Shanthappa, Member (J) :

The OA is filed u/s 19 of the AT Act, 1985 seeking the following reliefs :

- a) To pass an order to cancell and /or set aside the appointment letter issued by Sub Divisional Inspector (Postal) vide his office memo No.A/1/Recruit/Amgachia of 96 dated Bishnupur 3-12-96 in the post of Extra Departmental Mail Peon at Amgachia Branch Post Office in favour of respondent No.5 Ashim Kumar Patra.
- b) pass an order directing the sub Divnl. Inspector (Postal), Bishnupur, respondent No.2 appoint and / or absorb and/or regularise the petitioner in the vacancy occurred due to resignation of Bikash Chandra Naskar in the post of Extra Departmental Mail Peon at Amgachia Branch Post Office in terms of recruitment rules and circular regarding casual workers in the said post by cancelling the appointment of Shri Ashmi Kumar Patra respondent No.5 and/or appointing anyvacancy within the area of Joka sub post office in a post which is commensurate with the qualification of the petitioner.
- c) Pass an order to pay the wages of thepetitioner as daily rated majdoor for working of the petitioner for a period of 8-7-96 to 4-12-96 forthwith.
- d) Pass an order directing the vigilence section of the Postal Department and /or CBI to enquire and prosecute corrupt Sub Divnl. Inspector (Postal), Bishnupur on thebasis of allegations made in the application by the petitioner.

2. The brief facts of the case are the applicant was appointed as Substitute ED Mail Peon at Amagachia BPO from 18-6-1996 to 30-6-1996. The said post fell vacant due to resignation of permanent ED Employee, Shri Bikas Chandra Naskar. The sub Divnl. Officer (Postal) selected the applicant and engaged as EDMP on Daily Rate Mazdoor (DRM) on 29-9-1996 to 4-12-1996. Subsequently, Sub Divisional Inspector (Postal) issued notification to fill up the said post on permanent basis and applications were called for on 5-10-1996. The condition in the notification was with minimum qualification of Class VIII standard, matriculation or equivalent will be given preference. But there was no preference given to the service of the applicant who worked on daily rate mazdoor (DRM).

3. The applicant sent notice on 6-10-96 claiming his rights of his preference. In the selection process the applicant and others were candidates, fifth respondent was selected but the applicant's candidature was rejected. The applicant charged the SDI on the grounds of corruption but he has not made him as party to the case. Since the applicant did not fulfil the demands he was not selected. The fifth respondent was selected on paying the bribe to the SDI. The entire selection process is illegal and malafide. The fifth respondent was appointed appointed on 3-12-1996 as EDMP and joined service on 5-12-96, the applicant was put off from casual service as Mazdoor on 5-12-96. Thus the entire selection process was illegal and malafide. No preference was given to the experienced DRM Substitute EDMP. The SDI(P) has

violated the circular issued by the DG (Posts) dated 6-6-98. The applicant has fulfilled all the qualification under the notification in addition to the experience of EDMP Substitute under provisions of Sec.3 (17) of ED Staff Rules and also the circular dated 6-8-88 was violated. Hence the selection of fifth respondent shall be set aside and direct the respondents to regularise the applicant as EDMP.

4. The respondents have denied the averments and allegations made against the respondents in their reply. The respondents admit the service particulars of the applicant as DRM, as stop-gap arrangement. The said arrangement was discontinued from 1-10-92 after one Sri Bishnu Patra was engaged as EDDA of Amgachia, BRO. Notification was issued to fill up the post of EDDA and requisition was made to the District Employment Exchange. District Employment Exchange did not sponsor any candidates. Then a local notice was issued on 17-9-96. In response to the local notice five candidates appeared. According to the merit in the Madhyamik level, the applicant was placed at Sl. No.3. The first merit candidate did not fulfil the conditions of the ~~respondents~~ ^{residence} and the merit candidate i.e. fifth respondent was selected and appointed since the applicant has no merit. His candidature was rejected.

5. As per direction of the Tribunal in OA. 950 of 95, and OA. 1042 of 96 (Annex.R-VII) guidelines were issued for selection for EDDA. Accordingly, selection was made. There is no illegality or irregularity in the selection

process. There is no provision to consider the request of the applicant for regularisation. There is no provision to give preference to the experience of the applicant, who has worked as ED Substitute. The engagement of applicant was only as substitute till a regular selection was made. Hence the applicant has not made out a case for grant of relief. The OA is liable to be dismissed.

6. We heard the learned counsel for the applicant as well as for the respondents.

7. The admitted facts are that the applicant was engaged as EDMP as substitute. He had applied under the selection notification in a regular process. In the selection process the applicant was placed in the merit list at Sl. No. 3. The respondents have given particulars of the merit at page-3 of the reply statement as below :

1. Sri Sukanta Gayen : 52.88%
2. Sri Asim Kumar Patra : 48.55%
3. Sri Manoranjan Naskar : 46.33%
4. Sri Sanjit Kumar Patra : 44.4%
5. Sri Shyamapada Mondal : 42%.

8. The grievance of the applicant is that he had experience of EDMP as substitute. His experience was not considered. They have not followed the circular dated 6-6-88 issued by DG(Posts) and also they have not followed the provisions of Section 3(17) of ED (Staff) Rules. As per the notification the minimum qualification is VIII standard and preference was given to those who qualified matriculation. The applicant has merit but he was not considered.

9. The objection of the respondents that since they have considered the qualification among the contesting

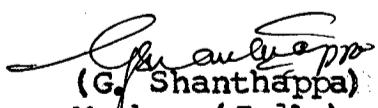


candidates is minimum qualification of Standard VIII. According to the notification preference was given to the matriculation candidates. The merit list was prepared since all the candidates were qualified as Madhyamik. The first merit candidate Sri Sukanta Gayen ~~secured~~ highest percentage of marks at Madhyamik level. He was denied due to inability to take residence within the jurisdiction of the concerned Post office. The next merit candidate fifth respondent was selected and he has fulfilled the conditions and appointed and is working from 5-12-96. The services of the applicant was put off.

10. When the applicant has no merit fifth respondent is the merit candidate and he was selected. The grievance of the applicant that since he had experience and also he had merit in VIII Standard he is the merit candidate and selection of fifth respondent is wrong and he has to be selected. The applicant has not produced the merit list in the minimum qualification of VIII Standard. According to the submission of respondents fifth respondent is the merit candidate and he was selected.

11. We considered the contention from either side. We do not find any illegality or irregularity in the selection process. Finally the respondents have selected the fifth respondent who is the merit candidate than the applicant, by following the notification.

12. The application is devoid of merit. The OA is dismissed.


(G. Shanthappa)
Member (Judl.)


(S.K. Malhotra)
Member (Admn.)

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