

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

C.P.C. No.65 of 1997
(O.A. No.469 of 1996)

Present : Hon'ble Mr. Justice G.L. Gupta, Vice-Chairman
Hon'ble Mr. S. Biswas, Administrative Member

Bidyut Kumar Roy & Smt. Rina Das

VS

Sri Murari Mohan Chatterjee, Sr. Supdt.
of Post Office, North Calcutta Division
Calcutta-700 037

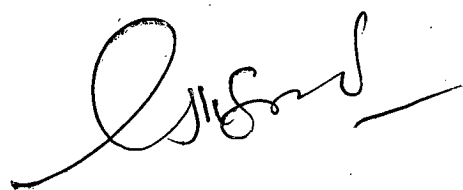
For the Applicant : Mr. N. Bhattacharjee, counsel
For the Respondents: Mr. M.S. Banerjee, counsel

: : Date of order: 11-04-2002

O R D E R

Per Mr. Justice G. L. Gupta,

The facts leading to the contempt action of this application are these: The Assistant Superintendent of Post Offices, North Calcutta issued a memorandum on 17.11.95 inviting applications for filling up the post of Extra Departmental Agent. The applicant had worked as part-time Sweeper-cum- water carrier at Mall Road Post Office and therefore, he also made an application. However, the applicant was not called for interview. He, therefore, filed OA 469/96 which was disposed of by this Tribunal giving direction to the respondents to consider the case of the applicants along with other eligible part-time staff who had applied in response to memorandum dated 17.11.95 and the process of selection be completed within eight weeks from the date of communication of the order. The Assistant Superintendent of Post Offices vide his communication dated 10.12.96 required from the candidates proof of number of days worked by them. The two applicants gave reply to the said communication, but they were not called for interview even after the expiry of the period of eight weeks. Therefore, they have filed this application.

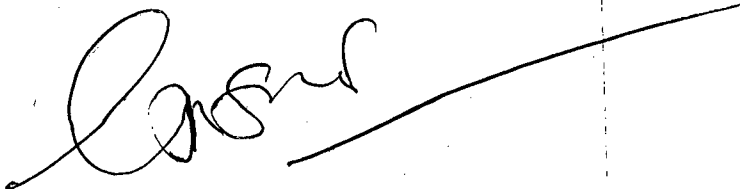


2. In the reply, the respondents have averred that the applicants failed to supply the proof of their work at Mall Road Post Office and hence they could not be considered for the post of Extra Departmental Agent. It was stated that the entire record of Mall Road Post Office has been searched, but there is no entry of the work having been done by the applicants.

3. In the supplementary affidavit filed by the respondents pursuant to the direction given by this Tribunal it has been stated that the certificates obtained by the applicants were issued by one Anil Kumar Mondal, Sub-Postmaster, Mall Road Post Office who retired from service on 28.2.83 and who was not attending office from 4.1.83, as Shri Jyotish Chandra Das had already taken over the charge from him. It has been stated that Shri Mondal has expired and therefore, he could not be examined. It has also been stated that the Postal Stamp used in the certificates was introduced in Mall Road Post Office with effect from 15.5.89 and the said Postal Stamp was not in use in the year 1983. There was no such Postal Stamp in vogue, instead the Postal Stamp "Temporary P.O./C - 1620 was being used there. It has been stated that according to the applicants' version, they had worked between the period 1980 to 1983, but the record of the said period has already been weeded out and therefore, there is no material to come to the conclusion that the applicants had worked as Part-time employees.

4. In the rejoinder, the applicants have stated that the certificates filed by them should be verified from the record available in the Office of the respondents.

5. We have heard the learned counsel for the parties and perused the documents placed on record. In the order dated 27.9.96 passed in OA 469/96 it was directed that the respondents

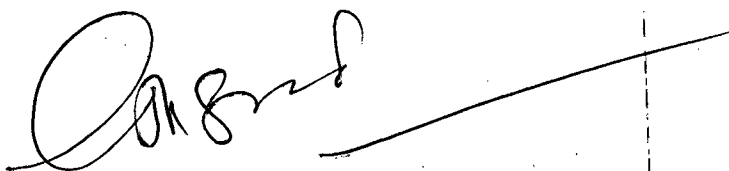
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shall consider the case of the applicants also along with other eligible part-time staff for selection to the posts of ED Agent at Mall Road Post Office, according to the Rules and the exercise was to be completed within a period of eight weeks from the date of communication of that order. It is evident from the averments made in the application that the Assistant Superintendent of Post Offices had issued notice to the applicants requiring them to file proof of their assertion that they had worked as part-time staff from January, 1980 to November, 1981 and the applicants had filed their replies in December, 1996. Therefore, it cannot be said that the respondents have not complied with the directions given in the order dated 27.9.96.

6. However, it seems that the applicants were not informed about the decision taken by the Asstt. Superintendent of Post Offices in the matter. In this connection, it may be pointed out that the Tribunal had not given directions to the respondents to inform about the decision taken in the matter. What was directed is that the process of selection should be completed within a period of eight weeks from the date of the communication of the order.

7. It is not the case for the applicants that the process of selection was not completed within eight weeks. Therefore, it cannot be said that the respondents have violated the direction of the Tribunal.

8. As to the genuineness of the claim of the applicants, it may be pointed out that the original record is not available with the respondents. No adverse inference can be drawn against the respondents for non-production of the original record because the time limit of keeping such record was three years which fact is



evident from Annexure 'A' appearing at page 381 in the Swamy's - P&T F.H.B. Vol.I. The time limit for keeping the Cash Books is also 10 years which has also expired in this case.

9. It is true that under Item No.33 a Register of Destruction record is to be kept permanently and the same has not been produced before us by the respondents, but on that ground it cannot be inferred that the Contingent vouchers and the relevant Cash Books were not destroyed within the period stated in Annexure 'A'.

10. It is significant to point out that according to the respondents, the seal used in the certificates produced by the applicants was not in vogue in the year 1983. There is no reason to disbelieve the assertion of the respondents in this respect. The use of the seal which was introduced in the year 1989 on the certificates alleged to have been issued in 1983 goes to show that the certificates are not genuine. In this connection, it is also relevant to point out that on the date of issuance of the certificates, Shri Mondal was not the officer at Mall Road Post Office. On 4.1.1983 his successor Shri Jyotish Chandra Das had already taken over the charge. Shri Mondal has expired and therefore, the respondents were not in a position to file the affidavit of Shri Mondal to show that the certificates purported to have been issued by him were not genuine. In this view of the matter, it cannot be said that the respondents have committed error in holding that the applicants were not eligible to be considered for the post on the basis of the proof produced by them.

