

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 159/2003
Date of Decision : this the 23rd day of March, 2004.

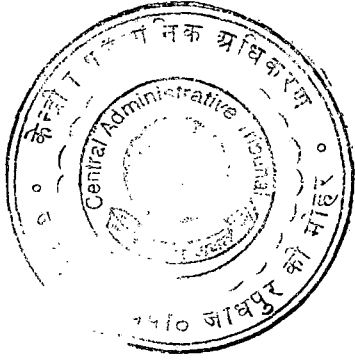
Hon'ble Mr. J.K. Kaushik, Judicial member
Hon'ble Mr. M.K. Misra, Administrative Member

Purushottam Joshi S/o Shri Ram Prasad Joshi
Aged about 21 years, R/o Brahmano Ki Sareri,
The. Asind, District Bhilwara.

[By Mr. Kamal Dave, for the applicant]

.....Applicant.

versus



1. The Union of India through : the Secretary,
Department of Post and Telegraph, Dak Bhawan,
New Delhi.
2. The Superintendent of Post Offices,
Head Post Office, Bhilwara.
3. The Inspector,
Sub Division Post Office, Gulabpura, Distt. Bhilwara.
4. Shri Kanhiyalal Kalosia,
Superintendent of Post Offices,
Head Post Office, Bhilwara.
5. Shri Satyanarain s/o Shri Rameshwarlal Manmaya
EDBPM, Brahmano Ki Sareri, The. Asind,
Distt. Bhilwara.

[By Mr. Vinit Mathur, for the respondents]

.....Respondents.

ORDER

[BY M.K.MISRA,ADMINISTRATIVE MEMBER]

The applicant, Shri Purushottam Joshi, presented this O.A. (159 / 2003) for adjudication and praying for the following reliefs :-

"8.1 that by an appropriate order or direction the respondents may be directed to appoint the applicant in furtherance of process of selection for the post of EDBPM Brahmano Ki Sariari Tehsil Asind, Distt. Bhilwara, by declaring the appointment of respondent NO. 4 Satayanaraian, illegal null and void;

8.2 that the authorities who intentionally appointed the respondent No. 4 ignoring the mandatory rules may be directed to be dealt under the CCS (CCA) Rules with exemplary cost for under taking such an malafide act of appointment to less meritorious candidate;

8.3 that the salary allowed to the respondent NO. 4 in collusion with the respondents may be recovered from the concerned authorities if not from the candidate who is allowed illegal benefit;

8.4 Any other appropriate order or direction, which may be considered just and proper in the light of above, may kindly be issued in favour of the applicant;

8.5 costs of the application may kindly be awarded in favour of the applicant."



2. The case was listed for admission today and with the consent of learned counsel for both the parties, the same has been heard for final disposal at the admission stage. We have carefully perused the pleadings and the records of the case.

3. Briefly, the facts of the case are that applicant is resident of Brahmano Ki Sareri, and is having immovable property in the same village thereby indicating that the applicant is having

adequate means of livelihood. The applicant is a science graduate and had obtained 79.2% marks in the matriculation (436 out of 550). The respondent-department i.e. the Superintendent of Post Offices, Bhilwara, invited applications in May 2001 for the post of Extra Departmental Branch Post Master (EDBPM). The applicant applied for that post within the prescribed period on 8.6.2001 along with all necessary documents. The first condition of eligibility for such post is that the candidate must be matriculate and selection would be based on the marks secured in the matriculation or equivalent examinations and no weightage would be given for any qualification higher than matriculation. Another condition was that the candidate must be having adequate means of livelihood and must be able to offer space to serve as an agency premises for postal operations. The premises must be such as will serve as a small post office with provision for installation of even a PCO. The respondent No. 5 Sh. Satyanaraian, was given appointment despite the fact that he was having lesser percentage of marks in the matriculation than that of the applicant. The applicant came to know from some sources that Shri Satyanarain obtained 330 marks out of 550 i.e. 60% in matriculation whereas, the applicant got the 79.2% of marks. The learned counsel submitted that the act of the respondents i.e. appointing respondent No. 5 with lesser percentage, is glaring example of misusing of administrative power and is violative of fundamental right of equity and right of equal opportunity of employment to any office under Articles 14 and 16 of the



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Constitution of India. The applicant fulfils all the requisite conditions necessary for the post of EDBPM. Thus, the appointment of Shri Satyanaraian with lesser marks is illegal.

4. The respondent No. 2 submitted reply to the O.A. and stated therein, that a notification of the vacancy was issued on 8.5.2001 with last date of receipt of applications i.e. 8.6.2001. Total six candidates including the applicant and the respondent No. 5 applied for the post. It was further stated that admittedly Shri Purushottam Joshi was having the highest percentage in matriculation examination i.e. 79.27% and respondent No. 5 was having only 60% marks. Respondent No. 5 was given appointment because he was found working as RMP under Ayurvedic system and earning a good income in the area besides owning certain properties whereas, other candidates including the applicant, did not have adequate means of livelihood which is an other condition of eligibility for that post. Learned counsel for the respondent No. 2 submitted that the ownership of the property and income is a pre-condition for that post and the applicant did not satisfy that condition. The evidence furnished by the applicant in respect of owning a immovable property was not reliable one because it was not attested as a true copy and the purchase of the immovable property was made on 7.6.2001 which was in the nature of an agricultural land taken on lease of one year or for production which would not yield any income on the very date i.e. 7.6.2001 which was not a crop season. At last, it was argued that the O.A. deserves dismissal on its face.



5. We have carefully gone through the various averments and rival submissions of the learned counsel of both the parties.

6. Before coming to any conclusion it is relevant to recapitulate the method of recruitment for the post of EDBPM. Chapter IV of Swamy's Compilation of Service Rules for Postal Gramin Dak Sevak, 9th Edition 2004, deals with the instructions regarding selection of that post. The educational qualification for that post is matriculation. The selection should be based on the marks secured in the matriculation or equivalent examination. No weightage need to be given for any qualification higher than the matriculation. Another condition for getting selection is the candidate is a person who takes over the agency (EDSPM/EDBPM) must be one who has adequate means of livelihood. The person selected for such post must be able to offer space to serve as the agency premises for postal operations. The premises must be such as may be useful to run a small post office with provision for installation of even a PCO. The residence of the person must be permanent resident of the village where post office is located. The criteria to judge adequate means of livelihood should be that in case he loses his main source of income he should be adjudged as incurring a disqualification to continue as EDBPM.

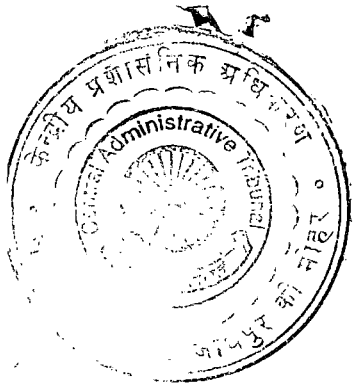


7. From the above eligibility conditions, it is observed that the question of having immovable property was not necessary

before a person can be selected. It prescribes that the person selected for the post must be able to offer space to serve as an agency premises and a person who takes over the agency must be one who has adequate means of livelihood, therefore, the question of satisfying the condition pertaining to immovable property could not precede selection.

8. We are, thus fully convinced that a candidate applying for the post of EDBPM need not to submit the proof of income / property along with his application, nor, the said proof is required at the time of selection/appointment. The appointment has to be made on the basis of marks obtained in the matriculation examination. Since the applicant got the highest marks as compared to other candidates including the respondent No. 5, the respondent No. 2 should have selected/appointed the applicant for the post of EDBPM. And after his selection, the respondent No. 2 should have given a reasonable time to him for submission of proof of income / property as per rules/instructions on the subject and in case he (the applicant) fails to submit the same within a reasonable time, offer can be given to the next eligible/selected candidate. The above view was also expressed by the Full Bench of the Tribunal in the case of Rana Ram Vs. Union of India and Ors. reported in 2004 (1) ATJ 1.

9. In the premises, the O.A. has force and merits acceptance. The same is hereby allowed. The selection and consequential appointment thereof in respect of respondent No. 5 stands



quashed. The respondents are directed to issue the offer of appointment to the applicant for the post of EDBPM Village Brahmano Ki Sariari Tehsil Asind, Distt. Bhilwara, within a period of one month after giving him a reasonable time say a period of three months; for fulfilment of the conditions regarding adequate means of livelihood / property as per the instructions/rules on the subject. However, the respondent No. 5 shall be continued till the appointment of the applicant.


(M.K. Misra)
Adm. Member


(J.K. Kaushik)
Judl. Member

Jrm

Part II and III destroyed
in my presence
under the supervision of
section officer () as per
order dated

Section officer (Record)

Part II and III destroyed
in my presence on 23/10/13
under the supervision of
section officer () as per
order dated 18/10/13

P.R. Sharma
Section officer (Record) 23.10.2013

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m/3/m

Received
for mukamat Dake (Ad)
24/03/09
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