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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Order : 18-07-2003

O.A. No. 240/2002.

Pukhraj s/o Shri Shankar Lal, aged about 19 years, by caste Jat, resident of Village Mugdara, Tehsil Merta, District Nagaur (Raj.) Challenge the illegal appointment of Respondent No.4 against the rules of appointment.

...APPLICANT.
versus

1. The Union of India, through Secretary to Govt. of India, Department of Post and Telegram Communication, Dak Bhawan, New Delhi.
2. The Post Master General, Jodhpur.
3. The Superintendent, Post and Telegraph, Nagaur Division, Nagaur.
4. Mehar Deen S/o Shri Ida Khan Sankhla by caste Muslim Resident of Phalki, Tehsil Merta City, District Nagaur (Raj).



... RESPONDENTS.

Mr. G. R. Punia counsel for the applicant.
Mr. Kuldeep Mathur counsel for the respondent No. 1 to 3.
None present for respondent No.4.

CORAM

Hon'ble Mr. R. K. Upadhyaya, Member (A).
Hon'ble Mr. J. K. Kaushik, Member (J).

: O R D E R :
(per Hon'ble MR R. K. Upadhyaya)

This application under Section 19 of the Administrative Tribunals Act, 1985, has been filed by Shri Pukhraj S/o Shri Shankar Lal, seeking a direction to the effect that the appointment

(Signature)

order dated 10.06.2002 in favour of Private respondent NO.4 Shri Mehar Deen S/o Shri Ida Khan Sankhla, be declared illegal, quashed and set aside. The applicant also wants a direction to the official respondents to appoint him on the post of Extra Departmental Branch Post Master (EDBPM, for short) of Village Mugdara, Tehsil Merta.

2. The applicant has stated that he is a resident of village Mugdara, District Nagaur. When applications for the post of EDBPM were called for vide notification dated 21.02.2002 (Annexure A-1), he had applied for the same in the prescribed proforma. The notification specified that the applicant should be resident of the same village having his residential accommodation. The applicant should possess immovable property. He should also have independent source of income. The agricultural land and immovable property yielding income will be given preference. The educational qualifications should be 10th Class Pass and the applicant should have suitable house for running the post office in the village. There were other stipulations in this notification to the effect that the applicant should hold good moral character and should be of 18 years of age. The post so notified was unreserved. This notification also stated that the application should be submitted on the prescribed proforma by 22.04.2002. Any application received thereafter and the forms which are not duly filled up were to be rejected. Even such applications which did not accompany certified copies of the certificates, or were incomplete, were not to be considered at all. The applicant further stated that he had passed secondary education in the year



Chitrangada

2001 with 53.5% of marks. He was holding all the qualifications as per notification, therefore, he submitted his application. The applicant had also independent income of Rs.30,000/- per annum. This was supported by a certificate issued by Tehsildar. The applicant claims that ignoring the mandatory provisions contained in the notification dated 21.03.2003 (Annexure A-1), the official respondents selected one Shri Mehar Deen Sankhla as per letter dated 23.05.2002 (Annexure A-8). The applicant felt aggrieved by this order dated 23.05.2002 ^{and} filed OA No. 147/2002 in this Tribunal. However, the same was withdrawn on 4.6.2002 with a liberty to file fresh OA. The applicant claims that after the OA was withdrawn by the applicant, the official respondents issued an appointment order dated 10.06.2002 in favour of respondent No.4. The applicant claims that the respondent no.4 did not fulfil the conditions of the advertisement for appointment to the post of EDBPM. It is stated that the applicant did not have a copy of the appointment order of respondent no.4. Therefore, he asked for the same from respondent no.3 but the has been refused to him. Therefore, such an appointment order has also not been annexed to this OA. The applicant alleges that he was selected for the post but the appointment order was issued not in his favour but ⁱⁿ favour of respondent no.4. The applicant claims that the respondent no.4 does not have immovable property in his personal name before the last date of submitting his application. Therefore, he did not fulfil the requisite qualification for being appointed. On these facts the applicant has claimed the relief as stated above.

3. The official respondents have filed their reply and opposed

Ch. B. Singh (ASO)

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this OA stating therein that no appointment order dated 10.06.2002 in favour of Private respondent NO.4 has been issued. Therefore, there was no question of supplying a copy of the same to the applicant and the entire OA is misconceived, because it makes a prayer of quashing and setting aside of the order dated 10.06.2002 only. As a preliminary objection, the official respondents have also stated that the applicant has not annexed any copy of the order by which he is aggrieved, therefore, this application is to be dismissed even on this ground alone. The official respondents have also submitted their reply on the merits of the claim of the applicant. It has been stated that respondent NO.4 was selected for the post of EDBPM, Mugdara, having merit of 64.18% in Secondary School Examination. He also fulfilled all the departmental formalities required under the rules. The official respondents further state that respondent no.4 was more meritorious than the applicant whereas the applicant had secured only 53.5% of marks, the respondent no.4 had secured 64.18% of marks. Other remaining applicants were also having lower merit than the respondent No.4. Therefore, the selection of respondent no.4 cannot be challenged.



4. The applicant has not filed any rejoinder to the reply filed by the official respondents and no representation on behalf of respondent no.4 has been made inspite of service of notice to respondent no.4.
5. We have heard the learned counsels for the applicant as well as for the official respondents.
6. From the facts as brought out on record, it is seen that

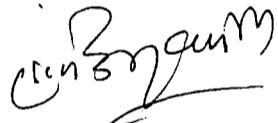
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respondents NO.4, Shri Mehar Deen, was having better percentage of marks (64.18%) than the applicant who had secured only 53.5% of marks. The only question which arises for consideration is whether respondent no.4 was otherwise eligible in terms of notification dated 21.03.2002. In our opinion, the applicant has failed to bring on record any material to establish any disqualification of the respondent no.4. Merely because the applicant was also an eligible candidate, it does not give him a right of being appointed to the post. When the notification was issued inviting the applications, the applicant had applied alongwith others. The official respondents on verification of the material found Private respondent NO.4 more meritorious than the applicant, therefore, they have appointed him. We do not find any infirmity in the orders of the official respondents. Therefore, this application is dismissed without any order as to costs.




(J. K. KAUSHIK)

MEMBER (J)



(R. K. UPADHYAYA)

MEMBER (A)

For
22/7/03

Received by

Shashikant

Part II and III destroyed
in my presence on 23.3.09
under the direction of
Section Officer (Recd) as per
order dated 26.2.09

Section Officer (Recd)