

1/8
2/12

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No. 36 of 2004

Dated of order: July 12, 2005.

CORAM:

**HON'BLE MR. J K KAUSHIK, JUDL. MEMBER
HON'BLE MR. G R PATWARDHAN, ADM. MEMBER**

Bheru Singh S/o Shri Ugam Singh, by caste Rajput, resident of Village and Post Office Dholasar, Tehsil Phalodi, District Jodhpur and at present working as Gram Dak Sevak Branch Post Master, Dholasar Sub Post Office, Tehsil Phalodi, District Jodhpur.

...Applicant

Mr. Nitin Trivedi: Counsel for the applicant.

VERSUS



1. Union of India through Secretary to the Govt., Department of Posts, Dak Bhawan, New Delhi.
2. The Post Master General, Department of Posts, Jodhpur.
3. The Senior Superintendent of Post Offices, Main Post Office, Jodhpur Division, Jodhpur.
4. The Inspector of Post Offices, Pokran Sub Division, Pokran, District Jaisalmer.
5. Shri Amar Chand Mali S/o Shri Kanwar Lal Mali, resident of Village and Post Office Khichan, Malion Ka Mohalla Tehsil Phalodi, District Jodhpur.

.... Respondents

Mr. Vinit Mathur assisted by Mr. Mahendra Godara,
counsel for the respondents.

O R D E R (ORAL)

[Per Mr. J K Kaushik, Judl. Member]

Shri Bheru Singh has filed this Original Application wherein he has assailed the validity of Annexure A/1 i.e. order dated 3/4 April 2003 and order dated January 2004 at Annexure A/2. He

[Signature]

I/9
7/13

has sought for quashing of these orders in addition to a direction to the respondents to consider his candidature for appointment on the post in question amongst other reliefs.

2. With the consent of learned counsel for both the parties, the case was taken up for final disposal at the stage of admission since pleadings are complete. The applicant has not chosen to file any rejoinder despite the fact that ever since 16.09.2004 opportunities were given to file the rejoinder. We have, accordingly, heard the arguments advanced by the learned counsel for the parties and have also carefully perused the records of this case.

3. The factual matrix of this case is at a very narrow compass. The applicant is a resident of Village Dholasar, Tehsil Phalodi, District Jodhpur. He was provisionally appointed as Gram Dak Sevak Branch Post Master at Dholasar Sub Post Office against vacant post for the period from 14th September 2002 to 14th April, 2003 or till a regular selection is made, whichever period is shorter, vide memo dated 27th March, 2003. It has been averred that the applicant discharged his duties satisfactorily. A notification came to be issued vide impugned order at annexure A/1 wherein the applications were invited to fill up the post of Gram Dak Sevak Branch Post Master at Dholasar Sub Post Office on regular basis. Certain conditions have been mentioned in the advertisement. One such condition was that one must be bonafide resident of Village Dholasar and the other was that the post was reserved for Other Backward Class. The applicant also applied for the same. It has been



D/14
JHO

averred that being single post the same could not have been reserved and for this purpose no policy of reservation is applicable. The respondent-department has not maintained any reservation roster register by which it can be verified as to whether the present post is reserved for OBC category. The Original Application has been preferred on multiple grounds mentioned therein.

4. The respondents have filed a detailed and exhaustive reply to the Original Application and have countered the facts and grounds raised therein. They have, inter alia, narrated that after great difficulties the charge could be taken over from the applicant and was handed over to the person who came to be selected for the post in question i.e. respondent No. 5.

5. Both the learned counsel for the parties have reiterated the facts and grounds narrated in their respective pleadings. The learned counsel for the applicant has endeavoured hard to persuade us that firstly the post in question was not to be reserved. He has secondly submitted that the private respondent does not belong to the village Dholasar and did not fulfil the basic requirement of appointment as per the terms and conditions mentioned in the very notification. On the other hand, the learned counsel for the respondents has submitted that the candidature of the applicant could not have been considered and has not rightly been considered since the applicant does not belong to OBC category; he belongs to general category. As regards to the requirement of belonging to the particular village is concerned, it has been submitted that by



now much water has flown over the bridge and it is now settled position that one cannot be denied appointment on the ground of residence and for appointment to the post of Branch Post Master one can be given reasonable time to have a premise for carrying out the postal operations. But the selection is required to be made only on the basis of marks obtained in the matriculation examination and the preparation of the merit should be on the basis of the marks obtained in matriculation, which is a condition precedent, and the providing of accommodation is not a condition precedent. The private respondent has, however, fulfils all the requisite conditions and secured highest marks and was selected. Thus there has been absolutely no arbitrariness in his selection. The Original Application deserves to be dismissed.



6. We have considered the rival submissions put forth on behalf of both the parties. We enquired from the learned counsel for the applicant as to how many posts are there and on what basis he has developed the ground that the post was not reserved for OBC. The learned counsel for the applicant was unable to answer this question and he submitted that complete details are with the respondents. We find absolutely no basis in the pleadings of the applicant as to doubt on the action of the respondents. Otherwise also the department's actions are presumed to have been done in good faith and in accordance with the procedure established by law and it is for the person to prove otherwise in case he pleads so and admittedly the applicant has failed to produce any material refuting the said position. It may be pointed out here that the EDA posts are isolated posts. The reservation policy has been made applicable

I/6

by clubbing the cadre strength at divisional level. The concept of single post is misconceived. The applicant admittedly belongs to general category and he can have no claim for appointment against a post reserved for OBC. As regards the question of residence of the private respondent is concerned, firstly the applicant has no locus standi to challenge the same and secondly we are in agreement with the version of the learned counsel for the respondents that there is no such requirement and it is only after the selection, the selected candidate is required to provide a suitable premises for carrying out the postal operation. In this view of the matter, the submissions of the learned counsel for the applicant have no basis and the Original Application cannot be sustained.



7. In the premises the Original Application fails and stands dismissed with no order as to costs.

sd
(G R PATWARDHAN)
Administrative Member

JK
(J.K. KAUSHIK)
Judicial Member

Kumawat

~~Part II and III destroyed
in my presence on 10.1.14
under the supervision of
Section Officer () as per
order dated 18/12/13~~

Part II and III destroyed
in my presence on 10.1.14
under the supervision of
Section Officer () as per
order dated 18/12/13

Section Officer (Record)

Record
15/12/13