

In the Central Administrative Tribunal
Calcutta Bench

OA 748/97

15-3-04

Present : Hon'ble Mr.N. Prusty, Member(J)
Hon'ble Mr.N.D. Dayal, Member(A)

Swapan Kumar Sarkar

-vs-

D/o Posts

For the applicant : Mr.A. Chakraborty, Counsel

For the respondents : Mr.S.K. Dutta, Counsel

ORDER

Mr.N. Prusty, Member(J)

The applicant who had applied for the post of EDMC for Chatra Maldari Branch Office and faced the process of selection has filed the present OA for the following reliefs :

1. i) the impugned order appointing the respondent No.4 to the post of ED Mail Carrier, Chatra-Maldari B.O. be set aside and quashed;
ii) the respondents be directed to appoint the applicant to the post of ED Mail Carrier Chatra-Maldari if he is otherwise found fit and suitable.
2. The main contention of the learned counsel for the applicant is that the applicant fulfilled all the criteria as has been laid down by the Department, so also he secured highest marks than all other candidates, faced the process of selection, but the respondent authorities have given appointment to one Kalosasi Sardar, respondent No.4, even though he secured much less marks than the applicant. The official respondents have not filed their reply, but Mr.Dutta, the learned counsel for the respondent authorities produced the records relating to the selection process during the course of hearing. The private respondent No.4 neither appeared in this case, nor filed any reply, nor engaged any counsel, even though notice was served on him in this case.
3. Mr.Dutta, the learned counsel for the official respondents fairly submits that even though the applicant got more marks than all other candidates ~~and~~ participated in the selection process, he was not given appointment on the basis of observations

made by the SDIPOs, Jaynagar to the effect that "kalasasi Sardar at Sl. No.8 appears to be honest with temperate habits". Accordingly, considering the above observations made by the SDIPOS, the respondent No.4 was given appointment.

4. However, to our specific query as to whether as per rules there is any criteria for making such observation by the concerned authority and giving appointment in consideration such observations made, the learned counsel for the respondents fairly submits that there is no such criteria fixed either in the advertisement or in the rules in this regard.

5. In view of the above position and submissions made by the learned counsel for both the parties, we are of the considered opinion that since the applicant ~~has~~ fulfilled all the criteria and secured highest marks amongst all the candidates and as there is nothing on record against him with regard to the honesty and temperate habits, there was no ground for not selecting him for appointment to the above post. As it appears from record the respondent No.4 was given appointment only on the basis of such ^{for} unwanted/uncalled observation that he appears to be honest with temperate habits.

6. Keeping in view the discussions made above, the order appointing respondent No.4 dated 9-12-96 as ED Mail Carrier, Chatra-Maldari B.O. is quashed/set aside. The respondent authorities are directed to consider the case of the applicant for giving appointment to the above said post according to rules on the basis of selection made in 1996, ignoring the observation made by the Inspector of Post Offices/appointing authority. Further, the respondent authorities are directed to complete the entire process and issue appointment letter in favour of the selected candidate within a period of one month from the date of receipt of the order.

7. The OA is accordingly allowed. However, there shall be no order as to costs.

Member(A)

Member(J)