

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 856 of 97

Present : Hon'ble Dr. B.C. Sarma, Administrative Member.

Hon'ble Mr. D. Purkayastha, Judicial Member.

1. Sri Chinmoy Kr. Biswas, son of Sri Sunil Kr. Biswas of Vill. Joykrishnapur, P.O. Sendanga, P.S. Habra, Dist. (N) 24-Parganas.
2. Sri Susanta Roy, son of Sri Sushil Kr. Roy, of P.O. & Vill. Sendanga, P.S. Habra, Dist(N) 24-Parganas.
3. Sri Gopal Ch. Malakar, son of Subol Malakar, Vill. Joykrishnapura, P.O. Sendanga, P.S. Habra, Dist.(N), 24-Parganas.
4. Sri Brojen Kumar Bacher, son of Sri Surja Kanta Bacher, of Vill. & P.O. Sendanga, P.S. Habra, Dist(N) 24-Parganas.
5. Sri Swapan Malakar, son of Sri Subol Malakar of Vill. Joykrishnapur, P.O. Sendanga, P.S. Habra, Dist.(N), 24-Parganas.
6. Sri Nirupam Biswas, son of Late Nilkanta Biswas of Vill. & P.O. Sendanga, P.S. Habra, Dist.(N), 24-Parganas.

...Applicants.

-versus-

1. Union of India, service through the Secretary, Department of Post, Govt. of India, New Delhi-110 001.
2. The Chief Post Master General, Chittaranjan Avenue, 'Yogayog Bhaban', Calcutta-700 013.
3. The Superintendent of Post Office, Barasat Division P.O. Barasat, Dist. (N), 24-Parganas.
4. The Sub-Divisional Inspector of Post Offices (Postal, Habra, Sub-Divison, P.S. Habra, Dist.(N) 24-Parganas, PIN-743263.
5. The Branch Post Master, Sendanga Extra Departmental Post Office, via Kalyangarh, P.S. Habra, Dist. (North) 24-Parganas.
6. Sri Arun Das, son of Chaitanya Mohon Das, Vill. Kumardanga, Dogachia, P.O. Samudrapur, Dist. 24-Parganas.

...Respondents.

...Pvt. Respondent

For the applicants : Mr. A.K. Ganguly, counsel.

For the respondents : Mr. B. Mukherjee, counsel.

Heard on 9.1.98

Order on 9.1.98

O R D E R

B.C. Sarma, AM

Six applicants have jointly filed this application with the prayer *that* a declaration that selection to the post of EDDA of Sendanga Post

Office be made from amongst the permanent residents within the postal jurisdiction of Sendanga Post Office and not from outside; and that no recruitment can be made without disposing of the memo dated 17.6.97 in pursuance of the representation as set out in Annexures C & B respectively to the application.

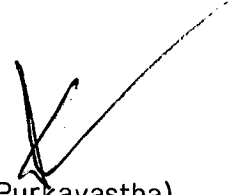
2. The applicants contend that the postal authority had issued a notice inviting ~~applications~~ alongwith documents as set out in Annexure A to the application and amongst the essential condition^s to be fulfilled was that a candidate should be a permanent resident or takes him/her residence under the delivery zone of Sendanga Branch Post Office. It is a specific contention of the applicants that the respondent No.6, one Sri Arun Das, who has been selected by the respondents and in respect of whom ^{appointment} order has been issued is not a permanent resident within the postal jurisdiction zone as stated in the notice. ~~Therefore~~ it is a serious lacuna on the part of the postal authority for selection. Hence they have filed this application with prayer.

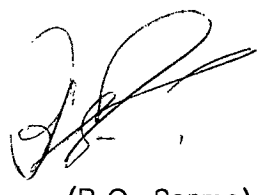
3. Mr. Mukherjee, Id. counsel for the respondents submits that the prayer made in the application cannot be sustained since the qualification regarding residence can be earned subsequent to the appointment.

4. We have carefully considered ~~for~~ the facts and circumstances of the case after hearing Id. counsel for both the parties and perusing records. We find that this application has been filed jointly by the six applicants and a candidate who has been selected by the postal authority is not a resident of the postal delivery zone of Sendanga Branch Post Office as required as per notice as Annexure-'A' to the application. The Id. counsel for the applicants also emphasises this point and his contention was that the selection procedure was wrong since all the conditions in the notice have not been fulfilled. This contention of the Id. counsel has been carefully considered by us but we are not impressed by it in view of the judgment in P.V. Kochuthresia Vs. Superintendent of Post Offices reported in 1993 (24) ATC 59 wherein it was held that the condition of the resident is not sustainable since it is a fundamental right guaranteed under the Constitution that any citizen of this country can reside anywhere or any place in this country. So that condition has to be considered as a post appointment condition. In fact the

Tribunal had directed the respondents to replace the condition in the rule of residence simpliciter to be fulfilled subsequent to the selection and appointment. The ^{respondents} applicant could not throw any light whether this direction has been subsequently amended or not. So, we are of the opinion that in view of the above judgment of the Tribunal, the condition laid down in Annexure-A clause (iii) can be sustained. Accordingly the application is liable to be dismissed.

5. For the reasons given above, we do not find any merit in the application. Accordingly it is dismissed summarily at the stage of admission itself.


(D. Purkayastha)
M e m b e r (J)


(B.C. Sarma)
M e m b e r (A)

a.k.c.