

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
CALCUTTA

No.O.A.889/1997

Date of order : 04/8/06

Present : Hon'ble Mr. B.V. Rao, Judicial Member  
Hon'ble Dr. A.R. Basu, Administrative Member

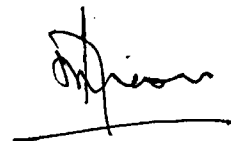
NURUL HUDA JAMADAR  
VS.  
UNION OF INDIA & ORS.

For the applicant : Dr.(Ms) S. Sinha, counsel  
For the respondents : Mr. S.P. Kar, counsel

ORDER

Per Dr. A.R. Basu, A.M.

In this O.A. the applicant, Nurul Huda Jamadar has challenged the selection of Sri Samir Chandra Roy, respondent No.5 in this O.A. in the post of Extra Departmental Branch Post Master, Chandannagar Branch Post Office, under Diamond Harbour Head Office. The fact of the case in brief is that in response to an advertisement dated 9.10.1996 for selection to the post of EDBPM, Chandannagar Branch Post Office, the applicant applied for the said post along with other candidates. Interview was held on 23.3.1997. The applicant duly appeared in the interview. He alleges that he secured highest marks in Higher Secondary Examination amongst the candidates who applied for the said post and fulfilled all other requisite conditions for the said post, but the respondents arbitrarily rejected his claim and appointed one, Sri Samir Chandra Roy, respondent No.5 in this O.A. He further alleges that the respondent NO.5 secured only 407 marks in Madhyamik Examination and has no landed property at Chandannagar whereas he



secured 462 marks in H.S. Examination and possessed other qualifications required for the post, but the respondents rejected his genuine claim for the post and appointed the respondent NO.5. Therefore, he has filed this O.A. before this Tribunal claiming for the following reliefs:-

- i) As the whole selection process is bad, illegal, arbitrary and wrong, it should be quashed and/or set aside;
- ii) A direction commanding the respondents to give appointment to the applicant in the post of E.D.B.P.M., Chandannagar in view of the fact that the applicant has topped the merit list in the selection for the said post;
- iii) Any further order/orders as their Lordships may deem fit and proper."

2. The respondents have filed written reply and disputed the claim of the applicant. The respondents have accepted that the applicant secured higher marks than that of the respondent No.5, but according to them the applicant did not fulfil the other requisite conditions for selection to the post of EDBPM. The respondents have stated that the applicant has no personal adequate and independent means of income nor he could produce any document to prove that he has landed property and as such despite his securing higher marks in Madhyamik Examination, the respondent No.5 who was empanelled at Srl. NO.2 in the list was selected for the post. The respondents further stated that the respondent No.5 fulfilled all the requisite conditions for selection to the said post and was given appointment, therefore, they have not committed any irregularity or illegality in the matter of selection and the O.A. is liable to be dismissed.



3. Dr.(Ms.) S. Sinha, Id. Counsel for the applicant has argued that the applicant fulfils all the requisite qualifications and therefore, he should be selected for the said post.

4. Mr. S.P. Kar, Id. Counsel for the respondents argued that no irregularity has been committed by the respondents and the respondent No.5 was rightly selected for the post of EDBPM as per rules.

5. We have heard Id. Counsel for both sides and have gone through the pleadings. From the perusal of the O.A. it appears that on 9.10.1996 applications were invited for the post of Extra Departmental Branch Post Master, Chandannagar Branch Post Office under Diamond Harbour Head Office. The applicant for the said post alongwith others. 13 applications were received by the office of the respondents. Amongst them one Smt. Suchismita Sikdar(Naskar) was absent as a result of which 12 candidates including the respondent NO.5 in this O.A. were considered for the said post out of which one, Sri Samir Kr. Roy was selected for the post considering his educational qualification, independent monthly source of income and property owned by him in his own name. The applicant even though secured higher percentage of marks, he had no personal adequate independent means of income. The applicant submitted income certificate issued by Gram Panchayat Pradhan wherein family income of the applicant has been shown as Rs. 7000/-. In addition to this the applicant could not produce any land deed to establish landed property in his name. He has submitted only some tax receipts issued in his favour on the date of verification. Due to these reasons the applicant was not selected.



Moreover, the income certificate submitted by the applicant indicates the income of the family of the applicant and not his individual income. In the written reply of the respondents it has been stated that in view of the D.G. Post Letter no. 17-104/93-ED & Trg. dated 6.12.93 it has clearly been indicated that the selected candidate has to take up his residence in the village of the post office before appointment and hence residence in the village of the post office is not a pre condition of selection. The respondents have annexed a copy of the letter dated 11.01.94 issued from the Office of the Chief Post Master General, W.B. Circle, Calcutta - 700 012 with copy of the Dte's Communication No.17-104/93-ED & TRG. dated 6.12.93 (Annexure R-I) on the subject in support of their statement. However, right to property is no longer a fundamental right and, therefore, it cannot be made a condition for selection. In the communication dated 6.12.1993 it has been mentioned that:-

"It is not necessary to quantify "adequate means of livelihood". However, it may be laid down that in the case of appointment of ED Sub Postmasters/Branch Postmasters, preference may be given to those candidates whose "adequate means of livelihood" is derived from landed property or immovable assets if they are otherwise eligible for the appointment."

From perusal of the reply it appears that the respondent No.5 had submitted the land deed(Annexure R-2) to the authorities concerned and therefore, contention of the applicant that the respondent NO.5 has no landed property and he is merely a tenant, is not tenable. Moreover, the interview was conducted in the year 1997 and we do not find any reason to unsettle the selection process in 2006 as no specific ground has been shown for unsettling the settled matters.

