

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.936 of 1997

Present : Hon'ble Mr. S. Biswas, Administrative Member
Hon'ble Mr. A. Sathath Khan, Judicial Member

Md. Mainul Haque Ukil, S/o Late
Habibullah Hoque Ukil, residing at
Vill. & P.O. Barachandgarh, Dist. Nadia

... Applicant

VS

1. Union of India, through the Secretary, Ministry of Communication, Sanchar Bhawan, New Delhi
2. The Chief Post Master General, Yogayog Bhawan, Calcutta-12
3. The Superintendent of Post Offices Nadia North Division, Krishnanagar, Nadia
4. The Sub-Divisional Inspector, Debagram P.O. Debagram, Dist. Nadia
5. Anwar Shaikh, Vill & P.O. Bhurulia, Dist. Nadia

... Respondents

For the Applicants : Dr. S. Sinha, counsel

For the Respondents : Mr. S. Chowdhury, counsel

: : Date of order: 24-04-2003

O R D E R

Hon'ble Mr. A. Sathath Khan, JM

The OA is directed against the selection of the private respondent, viz., 5th respondent for the post of EDBPM and for further direction to consider the applicant ~~for~~ the said post.

2. The applicant contends that he is a permanent resident of Barachandgarh village, that he is a Matriculate, that he possesses adequate means of livelihood from landed property, that the private respondent is not a resident of the said village and does not possess adequate means of livelihood from landed property or immovable assets and that the selection of the 5th respondent ~~for~~ the post of EDBPM is illegal.

3. The respondents contend that an applicant to the post in question may be a resident of any place in India preferably of

Barachandghar village but such a candidate should take up his residence in the concerned village before appointment, that the condition regarding the adequate means of livelihood is not an essential qualification, that the private respondent No.5 secured higher marks than the applicant in the Matriculation and that the selection of 5th respondent is in order.

4. Heard the learned counsel for the applicant and the respondents and considered all the pleadings and relevant records of the case.

5. The point for consideration in this case is whether the selection of the 5th respondent to the post of EDBPM has been properly done by the respondents accordingly to rules. Admittedly, both the applicant and the private respondent No.5 are Matriculates. A perusal of the notification calling for application for the said post clearly shows that a candidate may be a resident of any village in India preferably of Barachandghar village. Moreover, the Supreme Court has held in the latest decisions reported in 2002 SCC(L&S) 913 and 935 that residence of a candidate cannot be made a condition precedent. Hence the contention of the applicant that the 5th respondent is not eligible for the said post is not sustainable.

6. The next contention of the applicant is that the applicant possesses adequate means of livelihood ranging from landed property whereas 5th respondent did not possess adequate means of livelihood from landed property or immovable asset. In this connection we may refer to a decision of Kerala High Court reported in 2002(1) KLT 554 in which the Division Bench of the Kerala High Court has categorically held that the stipulation regarding the adequate means of livelihood from landed property or immovable asset is irrational or illegal and violative of Articles 14, 16 and 21 of the Constitution of India. Hence this contention of the applicant is also not sustainable. The third contention of the learned counsel for the applicant is that the applicant

secured higher marks than the 5th respondents. A perusal of the marks obtained by the the applicant and the 5th respondent clearly shows that the 5th respondent who was selected has secured 69.33% but the applicant obtained only 54.22%. Under these circumstances we hold that the respondents have rightly selected the 5th respondent and there are no merits in the contention of the applicant.

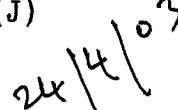
7. In the result, the OA is dismissed with no order as to costs.


(A. Sathath Khan)

MEMBER (J)


(S. Biswas)

MEMBER (A)


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