

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A.997/1997

Date of order : 8/10/97

Present : Hon'ble Mr. Sarweshwar Jha, Administrative Member  
Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member.

Bibekananda Mondal, son of  
Sri Mohanlal Mandal of Village  
& P.O. Gunpura, P.S. Ranibandh,  
District-Bankura

.....Applicant

VS.

1. Union of India, represented by  
the Secretary, Ministry of Communication,  
Department of Post & Telegraph having  
its office at New Delhi
2. The Sr. Superintendent of Post Office,  
Bankura Division having his office at  
Bankura, P.O. & District-Bankura
3. The Sub-Divisional Officer(Postal)  
Khatra, P.O. & P.S. Khatra,  
District-Bankura
4. The Post Master General, West Bengal  
Circle, having his office at Yogayog  
Bhawan, Calcutta-700 012
5. Shibaprosad Mandal son  
of Shri Tapan Kumar Mandal of  
Village & P.O. Gunpura,  
P.S. Ranibandh, District-Bankura

.....Respondents

For the applicant : Mr. T.P. Das, counsel  
Mr. D.K. Adhikari, counsel  
Mr. S.K. Dutta, counsel

For the respondents : Mr. B.K. Chatterjee, counsel

O R D E R

Per Mukesh Kumar Gupta. J.M

Sri Bibekananda Mondal, the applicant herein challenges the  
5th Respondents' appointment as Extra Departmental Branch Postmaster,  
Gunpura as well as prays for direction to the respondents to appoint  
him on the said post.

The facts as stated by the applicant are that Senior  
Superintendent of Post Offices, Gunpura published notice inviting  
application for the post of Extra Departmental Branch  
Postmaster(hereinafter referred to as EDBPM). Being eligible the  
applicant applied for the said post. The last date for submitting  
such an application was 21.12.1996. The applicant had secured 460

marks in the Madhyamik Examination and according to him he was the most meritorious candidatee amongst those who applied for the said post. Despite such fact the respondent No.5 who had secured only 427 marks in the Madhyamik Examination, was appointed on the said post in breach of law on the said aspect that the most meritorious candidate should be appointed. It was further stated by the applicant that he was appointed as Extra Departmental Delivery Agent with effect from 1.1.1997 and was given additional charge of the post of EDBPM on 8.1.1997. All of a sudden on 5.7.1997 Inspector of Post Office directed the applicant to hand over the said charge of EDBPM without any justification. It is contended that in view of the law laid down by the Hon'ble Supreme Court in 1997(2)SCC-292(Balaram Prasad Vs. Union of India & Ors.), denial of appointment to the most meritorious candidate is illegal, arbitrary and violative of Article 14 of the Constitution of India.

2. The respondents No.1-4 contested the said claim of the applicant and stated that pursuant to respondents' notification issued in September, 1996 as well as requisition made to the Employment Exchange, 29 applications were received including that of the applicant and respondent No.5 herein out of which only 21 candidates appeared for biodata verification on 21.1.1997. The first four candidates including the applicant and the respondent No.5 herein secured the marks as follows:-

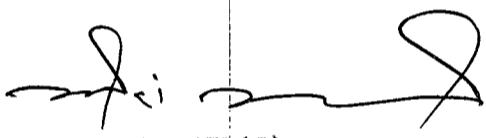
1. Sl. No. 30 - Manisha Mondal (SC)  
 $541/900 = 60.1\% \quad \dots .133 \text{ Decl.}$
2. Sl. No. 24 - Naren Ch. Roy (SC)  
 $541/1000 = 54.1\% \quad \dots .144 \text{ Decl.}$
3. Sl. No.18 - Bibekananda Mondal (SC)  
 $460/900 = 51.1\% \quad \dots .07 \text{ Decl.}$
4. Sl. No.27 - Sibaprasad Mondal (SC)  
 $427/900 = 47.4\% \quad \dots .97 \text{ Decl.}$

In Para 3(vi) the respondents submitted that amongst the above 4 candidates first three candidates though secured higher marks than the candidate at Sl. No.4 were not considered for selection by the then Senior Superintendent of Post Offices, Bankura Division as because they have no sufficient landed property in their own names which could be considered as adequate means of independent livelihood. Moreover, Smt. Manisha Mondal who secured highest marks amongst all the candidates, was not considered for selection as she was not residing in the post village after her marriage. Simultaneously Shri Naresh Ch. Roy who was in the second position was not considered as he produced false residential certificate and Shri Bibekananda Mondal, the applicant herein who was in 3rd position, was not considered as he was already in Extra Departmental service of the other branch post office as EDDA. Since the respondent No.5 who was holding 4th position had landed property in his own name and was found fit for selection, was selected and joined the said post with effect from 5.7.1997. Subsequently the said selection was reviewed and it was cancelled, it was communicated to the respondent No.5 vide letter dated 27.10.1998. The said selection was cancelled vide order dated 9.11.1998 which is the subject matter of O.A.No.1369/1998.

3. We heard 1d. counsel for the parties and perused the pleadings carefully. As noticed from the above it is admitted fact that the applicant herein had not been the most meritorious candidate. Similarly he was denied appointment only on the ground that he had already been working as EDDA in some other branch post office. Similarly there was no justification to deny the appointment to Manisha Mondal who had been the most meritorious candidate merely on the ground that she was not residing in the village post office after her marriage. It is well settled law in terms of the judgment of the Hon'ble Supreme Court as noted herein above that meritorious candidate is entitled to appointment to any civil post which law admittedly in

our concerned view has been breached in the present case without any justification. Since the applicant's counsel submitted that the respondent No.5 is continuing in the said post, we call for the records of the O.A.No.1369/1998 wherein the order dated 27.10.1998 cancelling his appointment has been the subject matter. We find that no interim order was passed in the said case. The counsel for the respondents No.1-4 was unable to offer any comment on this aspect and, therefore, we are not very sure as to whether the respondent No.5 despite such stay being refused is continuing in the office or not.

4. In any case since the entire selection is now been cancelled and the order dated 27.9.1998 as well as 9.11.1998 terminating the services of respondent No.5 has been issued, we do not find any justification to issue any further order. Accordingly the application is disposed of having become infructuous. No order as to costs.



MEMBER(J)



MEMBER(A)