

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A.119 of 1997

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

Hon'ble Mr. G. S. Maingi, Administrative Member

Swapan Kumar Naskar, son of Sri Tarapada Naskar, resident of Village & P.C.-Nayabed, P.S. Sonarpur, District - South 24 Parganas, a candidate for appointment to the post of E.D.B.P.M., Nayabed, District - South 24 Parganas.

.....Applicant

- Versus -

1. Union of India service through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Chief Postmaster-General, West Bengal Circle, Yoga-yog Bhawan, Calcutta - 700012.
3. The Superintendent of Post Offices, South Presidency Division, P.O. Baruipur, Dist. South 24 Parganas.
4. Sri Arun Kumar Naskar, son of Late Gajlon Naskar, working as E.D.B.P.M., Nayabed B.C., District - South 24 Parganas.

.....Respondents

For the applicant : Mr. N. Bhattacharya, counsel

For the respondents : Mrs. B. Ray, counsel

Heard on : 28.09.1999

Order on : 17-11-99

ORDER

D. Purkayastha, J. M.

Heard both the counsels.

2. The grievance of the applicant in short is that pursuant to the notice for filling up some posts of Extra Departmental Branch Postmaster, he applied for the said post and was interviewed by the authorities but thereafter the respondents rejected his appointment on the ground that he did not submit any document regarding his landed property at the time of interview which

was a necessary condition for appointment to the said post of EDBPM. According to the applicant, he passed the Secondary Examination in Second Division in the year 1989 under the West Bengal Board of Secondary Education obtaining total 407 marks out of 900 full marks (Annexure A3 to the application) and his date of birth is 13.03.1972 as per his Admit Card issued by the West Bengal Board of Secondary Education (Annexure A4). It is stated by the applicant that pursuant to the notice inviting applications from intending candidates for filling up the posts of E.D. Branch Postmaster, Nayabad, he applied for the said post with requisite certificates and documents well in time to reach the recruiting officer before the last date of receiving such applications. It is also stated by the applicant that he possesses 16 satak of land in his own name vide Registered Deed No.6961 dated 9.10.96 (Annexure A6). However, being satisfied with the candidature of the applicant, the Superintendent of Post Offices, Baruipur issued him a letter dated 7.10.96 requesting him to appear in the office on 16.10.96 with all the necessary documents in original and alongwith their photocopies mentioned in the said letter. Accordingly, the applicant appeared before the Screening Committee on due date with requisite certificates and testimonials. The respondents asked him to fill up a questionnaire and kept the photocopies of the requisite certificates and deeds etc with them and the originals were returned to the applicant after verification. But thereafter the respondents arbitrarily rejected his appointment on the ground that he failed to produce the original deed regarding his landed property as directed vide letter dated 7.10.96 and selected another candidate named Sri Arun Kumar Naskar in his place. So, he has come before this Tribunal for getting proper relief.

3. The respondents filed written reply denying the claim of the applicant. It is stated by the respondents in their reply that consequent upon the promotion to a higher post of the

Ex-SPM of Nayabadi EDBP the need arose to fill up the vacant post by recruitment of a suitable candidate. Accordingly, the authorities sent requisition to the local employment exchange on 28.8.96 with the request of sponsoring some names for this purpose. The Employment Exchange sent a list of 9 candidates and the applicant was one of them. Thereafter, all the candidates were called for verification of the requisite documents and testimonials on 16.10.96. During such verification, the applicant could not produce the land documents in his name which is one of the pre-requisites for appointment in the said post. However, one Arun Naskar who is respondent No.4 in this Q.A. was found most suitable for the post and was appointed on 12-12-96. So, there was no malafide in the matter of such selection and it was done as per the extant rules. The respondents further stated that according to the application, the applicant appeared before the authorities in pursuance of the letter of interview dated 7.10.96 on 16.11.96. But actually, such interview took place on 16.10.96. Thereby, the application is misconceived one and is liable to be dismissed.

4. Lt. counsel, Mr. N. Bhattacharya appearing on behalf of the applicant admitted that in the application the date of interview is typed as 16.11.96 in place of 16.10.96 by mistake. He also stated that the applicant was interviewed on 16.10.96 and produced necessary documents alongwith the deed of his landed property to the authorities on the same date. Mr. Bhattacharya further submitted that though the applicant secured highest marks in the Secondary Examination amongst the 9 candidates whose names were sponsored by the employment exchange for the post of EDBPM he was not selected. It is contended by Mr. Bhattacharya that merit should be the first criteria in the matter of selection for the said post of EDBPM and possession of landed property should be secondary one. Moreover, verification of the requisite documents were to be done after completion of selection procedure and

But in this case, such procedure was not followed by the authorities and the applicant's appointment was rejected by the respondents. Thereafter, they selected and appointed respondent No.4 ignoring the merit of the applicant. Therefore, the selection was arbitrary and the appointment of respondent No.4 is liable to be quashed.

5. Lt. counsel, Mrs. B. Ray appearing on behalf of the official respondents, submitted that the applicant failed to produce the requisite documents in respect of his landed property at the time of interview and he never applied for granting him further time for production of relevant documents. Since he could not produce the original deed of his landed property as per the eligibility condition for appointment in the post of EDBPM mentioned in clause 3 of the interview letter dated 7.10.96, he could not be selected inspite of the fact that he possessed highest marks in Secondary Examination amongst the 9 candidates who appeared in the interview for the post of EDBPM. On the other hand, the respondent No.4, Arun Naskar was found suitable in all respects and he produced all the requisite documents on the date of interview i.e. on 16.10.96. Thereby he was appointed in the said post of EDBPM as per rules. Mrs. Ray relied upon two judgments of the Hon'ble Apex Court reported in (1997)4 Supreme Court Cases 18 (Ashok Kumar Sharma and Others Vs. Chander Shakhar and Another) and in (1999)2 Supreme Court Cases 193 (Utkal University Vs. Dr. Nrusiingha Charan Sarangi and Others). Referring to the said judgments, she submitted that the application should be dismissed in view of the aforesaid judgments of the Hon'ble Supreme Court.

6. We have considered the submissions of the Lt. counsels for both sides and perused the records. The respondents have produced the file regarding selection of the candidate in the post in question. It is found from the records that the department requested the employment exchange to sponsor some

names of candidates for the purpose of filling up the post of EDBPM Nayaband. The employment exchange sent a list of 9 candidates to the authorities without scrutinising their eligibility for appointment to the said post. As a result, the respondents issued call letters on 7.10.96 to all the candidates and asked them to appear before the authorities on 16.10.96 with all the documents mentioned in that letter. On a perusal of Clause 3 of the said letter, we find that production of original deed and the documents regarding landed property held by the candidate was one of the eligibility condition for appointment in the post of EDBPM.

7. From the remarks column of the selection notes, it is found that the applicant, Swapan Kumar Naskar who was placed in Serial No.7 in the list of 9 candidates, was not considered to be suitable for the said post of EDBPM as he could not produce any valid document of land owned by him.

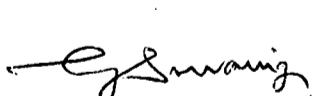
8. On a perusal of Annexure A6 to the application, we find that a certificate has been issued in favour of the applicant by the Block Land & Land Reform Officer, Baikunthapur, Sonarpur, South, 24 Parganas on 14.10.96 and as per that certificate, the land in question was registered in the name of the applicant on 9.10.96 i.e. after the date of sponsoring the name of the applicant by the employment exchange for the purpose of appointment in the post of EDBPM, Nayaband. Moreover, the applicant failed to produce any document before us to show that he received the original registered deed on 14.10.96 or before 16.10.96 (i.e. the date of interview).

9. Now we turn to the question whether possession of landed property should be considered primary or not in the matter of selection. It is the contention of the 1st. counsel for the applicant, Mr. Bhattacharya that merit should be the first criteria for appointment in the said post and possession of landed property should be secondary one. ^{Though} We find sufficient force in the arguments advanced by the 1st. counsel, Mr. Bhattacharya

show his eligibility for appointment in the post in question in all respects on the date on which he applied for the post. In the instant case, we find that the applicant applied for the said post before the date of registration of his landed property and he did not mention anything regarding this. He could not produce any document regarding his landed property before the authority on the date of interview and he never applied to the authorities for granting him further time for production of such documents. So the respondents denied his appointment as he did not fulfil all the conditions for such appointment.

On the other hand, the respondent No.4 ^Agot highest marks _{all} amongst the candidates and was considered to be suitable for the said post in all respects. He submitted requisite documents in proper time and was selected by the respondents. It is also stated by the respondents that the applicant got less marks than respondent No.4 and higher marks than other candidates of the said selection test.

10. In view of the above position and circumstances, we do not find any illegality or arbitrariness in the matter of selection to the post of EDBPM, Nayabad and we are of the view that the application is devoid of any merit and is liable to be dismissed. Accordingly, the application is dismissed without any order as to costs.


(G. S. MAINI)
17/11/99
MEMBER(A)

S. M.


(D. PURKAYASTHA)
17/11/99
MEMBER(J)