

In the Central Administrative Tribunal
Calcutta Bench

OA No.1014/97

Present : Hon'ble Mr.Justice B. Panigrahi, Vice Chairman
Hon'ble Mr.N.D. Dayal, Member(A)

Aloke Chakraborty

-Vs-

- 1) Union of India, service through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi - 110 001
- 2) Chief Postmaster General, West Bengal Circle, Yogayog Bhawan, C.R. Avenue, Calcutta-12
- 3) Supdt. of POs., South Presidency Dn., Baruipur, Dist.24 Parganas(S)
- 4) Sub Dvl. Inspector (Postal), Sonarpur Sub Dn., Sonarpur

For the applicant : Mr.A.N. Ghosh, Counsel

For the respondents : Ms U. Sanyal, Counsel

Date of Order : 29-09-97

ORDER

Mr.N.D. Dayal, Member(A)

The applicant in this case having passed Madhyamik Examination in 1988 and Higher Secondary thereafter got his name registered with the Employment Exchange, Sonarpur. When a requisition was made to the Employment Exchange for filling up a post of Extra Departmental Delivery Agent (EDDA) in Rajpur Sub Post Office (S.O), where the applicant resides permanently, in September/October, 1996, his name was forwarded along with that of others to the Department. The applicant states that an interview was held on 7-11-96 and on being found suitable in all respects he was appointed on 26-11-96 and joined the post of EDDA on 29-11-96. Thereafter he has been discharging his duties sincerely and honestly and he has a clean record.

2. However, the applicant is aggrieved that by an order dated 1-9-97 issued by the Sub Divisional Inspector, the appointment was cancelled without giving him any notice. The applicant submits that there was no regular selection because

of which his appointment was cancelled, and the post was lying vacant. He has contended that the order dated 1-9-97 terminating his services is malafide and his legitimate expectation to continue in service has been denied. Hence, the applicant has come before the Tribunal seeking direction upon the respondents to cancel, withdraw and/or rescind the purported order dated 1-9-97 and allow him to discharge his due duties and functions attached to the post of EDDA at Rajpur S.O. as usual as before.

3. The respondents have opposed the claim of the applicant in their reply. It is stated that the post of EDDA, Rajpur SO fell vacant on promotion of the former incumbent and after following the due process and formalities the applicant was given provisional appointment to the vacant post by order dated 26-11-96. Thereafter, on a review of the entire selection process it was found that the selection of the applicant was irregular because he had secured less marks in Madhyamik level as compared to other candidates. Therefore the cancellation of his appointment was ordered which was implemented by the Sub Divisional Inspector with effect from 1-9-97 by his memo of the same date. It is emphasised that the appointment was provisional only and since other candidates who had secured higher marks were deprived of the appointment because of irregularity in selection, the order of termination of appointment of the applicant was justified. It is clarified that one month's allowance amounting to Rs1264/- in lieu of the said notice was drawn through Money in favour of the applicant which he refused to receive. The respondents have drawn attention to the interim order passed by the Tribunal in this case on 3-9-97 whereby it was directed that in pursuance of the impugned order at Annexure A1 to the petition, the post of EDDA Rajpur S.O. shall not be filled up by the respondents except by regular appointees, till the next date. It is seen from order

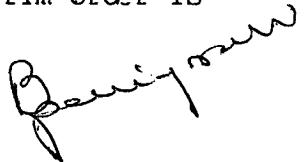
dated 7-9-97 of the Tribunal that this was further confirmed by clarifying that the respondents were not debarred from making any regular selection or if such selection has already been made to make a regular appointment and that the interim order had been passed because the respondents might fill up the post by some ad hoc arrangement which could not be allowed. Thus the respondents have claimed that the interim order does not debar the Department to make regular appointment in the post.

4. No rejoinder has been filed in this case.

5. We have heard the learned counsel for both the parties and perused the pleadings.

6. The original records of the selection to the post of EDDA Rajpur S.O. have also been placed by the respondents. From the comparative statement drawn up by them in respect of the candidates for recruitment to this post it is seen that the applicant had secured 356 marks out of 900, whereas many of the other candidates had secured more than him and even higher than 400 marks out of 900. It is therefore evident that selection of the applicant was irregularly made and other candidates who had higher marks than him appear to have been ignored. Besides, the appointment of the applicant was provisional and not on regular basis. As such it cannot be said that such irregular and provisional appointment would confer any right upon the applicant even though he might have worked in the post for sometime. A mere bald statement that the impugned order dated 1-9-97 was malafide could not be sufficient to sustain such an allegation. Therefore we do not find any merit in the case of the applicant. The application is dismissed. Interim order is vacated. No costs.


Member(A)


Vice-Chairman