

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 1431/1997

Present: Hon'ble Mr. Justice G.L. Gupta, Vice-Chairman.

Hon'ble Mr. B.P. Singh, Administrative Member.

Prasanta Kumar Misra, son of Sri Shyamapada Misra, of village and Post Office-Dhadkidihi, Police Station-Barabazar, District-Purulia, Aged about 32 years.

- v e r s u s -

1. Union of India, through the Secretary, Ministry of Communication, Dak Bhawan, New Delhi.
2. Post Master General, Yogajoga Bhawan, Calcutta-700 012.
3. Superintendent of Post Offices, Purulia Division, District-Purulia.
4. The Post Master, Purulia Head Office, District-Purulia.
5. The Assistant Superintendent of Post Offices, Purulia Division, District-Purulia.
6. Sri Nemai Mishra, son of Sri Narayan Mishra, of village and Post Office-Dhadkidihi, District-Purulia.

...Respondents.

For the applicant : Mr. G.C. Mukherjee, counsel.  
Ms. A. Chakraborty, counsel.

For the respondents : Mr. S.P. Kar, counsel.

Date of order: 15.02.2002.

O R D E R

B.P. Singh, AM

Sri P.K. Misra has filed this application for not giving his appointment on the post of Extra Departmental Branch Post Master (EDBPM), Dhadkidihi, Purulia. He has prayed for the following relief in this O.A.:-

"8.

- (a) For cancellation of the appointment of respondent No.6 in the post of E.D.B.P.M. at Dhadkaidih, Purulia, on the basis of the interview held on 27.10.1997 when the applicant stood first in the merit list of interview held on 27.10.97."

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2. The fact of the case as it appears from the O.A. is that vacancy on the post of EDBPM, Dhadkidih, Purulia occurred for which notice was issued by respondent No.3 on 11.9.97 vide Annexure-B. The applicant was eligible in terms of the advertisement notice and fulfilled all the conditions. The applicant was asked to appear for the Interview-cum-Bio Data verification on 27.10.97 as per Annexure-F. He stood first in the merit list on selection held on 27.10.97. All on a sudden he came to know that the person who stood below in the merit list than the applicant viz. Pvt. respondent No.6 was offered appointment on the post. The applicant was thus denied the appointment on the post ○ illegally and biased manner. The applicant also made representation on 12.12.97 vide Annexure-G against non-consideration of his candidature for appointment as EDBPM. Aggrieved with the above action of the respondent authorities the applicant filed the present O.A. and prayed for the relief cited above.

3. We have heard Sri G.C. Mukherjee, Id. counsel for the applicant leading Ms. A. Chakraborty and Sri S.P. Kar, Id. counsel for the respondents. The application has been contested by the respondents by filing reply. The applicant had also filed rejoinder to the reply. We have gone through the O.A., reply to the O.A. and rejoinder to the reply alongwith various enclosures annexed therewith.

4. The Id. counsel for the applicant Sri G.C. Mukherjee has reiterated the fact and submitted that the applicant stood first in the merit list and, therefore, he was eligible for appointment as EDBPM, Dhadkidih, Purulia. The action of the respondent authorities in ignoring his merit and candidature is therefore, illegal. Thus, the respondent authorities have acted illegally and with malafide motive when they decided to give appointment to the Pvt. respondent No.6.

4.1 The Id. counsel further submitted that the action of the respondent authorities in giving appointment to Pvt. respondent No.6 was against the rules as the Pvt. respondent No.6 stood third in merit.

Mukherjee

4.2. The Id. counsel has further submitted that on exclusion of the applicant's name for appointment on the post of EDBPM, Dhadkidih, Purulia, the respondent No.5 has given report of non-cooperation by the applicant which became basis for his exclusion. The Id. counsel submits that allegation of non-cooperation is not one of the conditions of recruitment and co-operation or otherwise can be assessed only after appointment on the post and performance of the appointee on that post. Therefore, the report of respondent No.5 against the applicant is motivated, malafide and made with ulterior motive to exclude the applicant from the zone of consideration.

4.3. The Id. counsel further submitted that appointment of Pvt. respondent No.6 on the post of EDBPM by respondent No.3 is in violation of provision of Arts. 14 and 16 of the Constitution.

On the basis of the above grounds Id. counsel submitted that great injustice has been done by excluding the applicant from appointment on the post of EDBPM. The appointment of Pvt. respondent No.6 being against the provisions of the Recruitment rules requires to be set aside by allowing the application and granting relief prayed for, to the applicant.

5. The application has been contested by the respondents by filing opposition to the application. The respondent authorities have denied all the allegations except those admitted in the reply and/or are based on record or documents.

5.1. The Id. counsel for the respondents has submitted that the post of EDBPM, Dhadkidih, Purulia fell vacant due to retirement of the incumbent on 1.10.1996. The Employment Exchanges, Purulia and Raghunathpur were approached to sponsor the name of candidates on 31.7.1997. In response to the said requisition District Employment Exchange, Purulia sponsored the names of only two candidates. No response was received from Employment Exchange, Raghunathpur. As the names of the sponsored candidates were less than three local notice/advertisement was issued on 11.9.97 inviting applications from candidates. In response to the local notice 8 applications including those of the two candidates sponsored by the Employment Exchange were received. All

J. N. Sanyal

the eight candidates were called for Interview-cum-Bio Data verification and all of them were present on the prescribed date. Amongst the eight candidates, four candidates have no property in their own name which is one of the essential requirements for selection to the post of EDBPM. Amongst the remaining four, there was anomaly in the date of birth etc. of one candidate which was proved subsequently through enquiry and, therefore, he was not considered. The other two candidates viz. Sri Aniruddha Mahanty and Sri Prasanta Kumar Misra, the present applicant have no property in their name within the stipulated date i.e. by the last date of receipt of application which was 26.9.97. These two candidates including the present applicant acquired the landed property subsequently i.e. on 20.10.1997 and 16.10.1997 respectively and, therefore, the same was not entertained as per provision contained in Dte's communication dated 18.9.1995 circulated through Chief P.M.G., Calcutta letter dated 1.11/12.1995 and P.M.G., South Bengal letter dated 4.1.1997. As such the two candidates could not be considered for the post of EDBPM due to non-fulfilment of property qualification. The fourth candidate viz. the Pvt. respondent No.6 Sri Nema Mishra fulfilled all the qualifications for the post and the same was also corroborated through departmental enquiry and, therefore, Pvt. respondent No.6 was selected and offered appointment on the post which he joined on 19.12.97. Thus the Id. counsel submitted that the provisions of the recruitment rules and instructions and guidelines issued by the department were meticulously followed in the selection process and Pvt. respondent No.6 was selected and appointed on the post as he fulfilled the prescribed eligibility conditions for the post.

5.2. The Id. counsel has further submitted that since the applicant did not fulfil the property qualification for the post of EDBPM, Dhadkidih, Purulia, there was no question of securing first position by him. ~~As~~ per provision of recruitment rules, qualification required that the candidate must have landed property in his own name as well as he must have adequate means of livelihood and the same was also specifically mentioned in the notice dated 11.9.97 enclosed as Annexure-B.

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5.3. The Id. counsel further submitted that the applicant did not have any property in his name till the last date of application which was fixed as 26.9.97. The applicant also did not submit any certificate or document in support of having adequate means of livelihood. Thus the applicant did not fulfil the condition of eligibility for selection on the post. The Id. counsel submits that the applicant did not have landed property in his own name till last date of application for the post of EDBPM which was fixed at 26.9.97. The applicant actually acquired the property on 16.10.97 which was acquired much after the stipulated date i.e. 26.9.97.

5.4. The Id. counsel further submits that the case of appointment of the applicant was considered on the documents supplied and produced by him in the application as well as at the time of interview-cum-Bio data verification. The decision of the respondent authorities is based on those materials and is not based on any imaginary or extraneous consideration. The fact remains that the applicant did not fulfil the prescribed qualification and, therefore, he was not considered for the selection on the post of EDBPM.

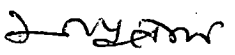
5.5. The Id. counsel further submitted that the case of the applicant was considered on the basis of material produced by him and the applicant was given opportunity for Interview-cum-Bio data verification like all other candidates and, therefore, there was no violation of Arts. 14 and 16 of the Constitution. The decision of the respondent No.3 was based on facts and materials submitted and produced by the applicant for the post of EDBPM. As would be clear from the above paragraph out of the 8 candidates, there was only one candidate who ultimately fulfilled all the prescribed qualifications for the post and the same candidate was finally selected and appointed on the post of EDBPM, Dhadkidih. He happens to be Pvt. respondent No.6 in the present application.

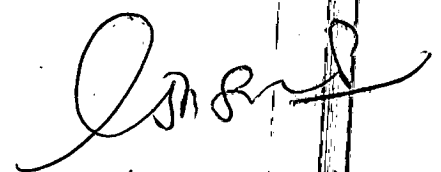
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On the basis of the above submission the Id. counsel submitted that the entire recruitment and selection process in the case of EDBPM, Dhadkidih, Purulia have been meticulously followed by the respondent authorities and no irregularity or violation of any procedure or rules have been committed by the respondents. The best eligible candidate viz. Pvt. respondent No.6 fulfilling the prescribed qualifications for the post of EDBPM was selected and appointed according to the rules and procedures prescribed. There is no violation of any rules or procedures or Arts. of the Constitution in the selection process. The present O.A. does not have any merit and, therefore, justifies to be dismissed.

6. On the basis of the submission it is clear to us that the prescribed procedure for recruitment and selection on the post of EDBPM Dhadkidih, Purulia has been meticulously followed by the respondents. We do not find any irregularity or violation of any rule etc. in this case. The respondent No.3 has acted according to the departmental rules and procedures on the subject and had selected and appointed the best eligible candidate who fulfilled the prescribed qualifications for the post of EDBPM Dhadkidih, Purulia. We do not thus find any merit in the case.

7. In view of the above, we do not find any merit in the case and dismiss the application without any order as to cost.

  
( B.P. Singh )  
Member (A)

  
( G.L. Gupta )  
Vice-Chairman.