

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 37 of 1997.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.
HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

Biswajit Biswas,
S/o- Bimal Biswas,
resident of - Villi & PO. Banali,
PS. Hanskhali, Dist- Nadia.

... ... A-pplicant.

Vrs.

1. Union of India,
through the Secretary, Ministry of
Communication (Post & Telegraph)
New Delhi.
2. Superintendent of Post Offices,
South Division,
PO. Kalyani, Dist- Nadia.
3. Asstt. Superintendent,
of Post Offices, Ranaghat East Sub-Divn.
PO. Ranaghat, Dist- Nadia.
4. Malay Biswas,
S/o- Jyotish Biswas of Vill- Natungram,
PO. Banali, Dist- Nadia,
PS. Hanskhali, Dist- Nadia.

... ... Respondents.

For Applicant : Mr. Balai Chatterjee, Counsel leading
For Applicant : Ms. B. Mondal, Counsel

For Respondents : Mr. B.K. Chatterjee, Counsel.

Heard on : 4.3.97.

Ordered on: 4.3.97.

O R D E R

B.C.Sarma, AM.

The dispute raised in this application is about the
appointment of Respondent No. 4, Shri Malay Biswas as E.D.D.A in
Banali Post Office at Nadia district.

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2. The applicant contends that pursuant to the invitation of application by the respondents, he had applied for being appointed as EDDA like other other candidates including the respondent no. 4. But in an illegal manner the respondent no. 4 has been appointed in that post. Amongst the grounds taken by the applicant the followings have been averred :-

His case for the post was not considered in accordance with the Rules. The respondents have ignored and neglected to apply their mind on the case of the applicant where the respondent no. 4 did not fulfil the condition for appointment. The non-consideration of the applicant's case for the purpose of giving the appointment to the said post has resulted in causing irreparable loss and injury to the applicant. The respondents have not followed the relevant recruitment rules for making of such appointment and, as such, the said appointment is unwarranted and malafide and improper because the applicant's case was not considered. Being aggrieved thereby, the instant application has been filed with the prayer for issue of direction on the respondents to consider the applicant's representation for being selected and appointed in the post of Extra Departmental Delivery Agent (EDDA) for the local Post Office viz. Benali Post Office.

3. When the admission hearing of the matter was taken up today Mr. B.K. Chatterjee, 1d. Counsel appearing for the respondents produced before us the relevant file wherein the selection was made. We have gone through the file and we find that the cases/as many as 35 candidates were considered by the respondents including the applicant. We further find that the respondents have given a detailed analysis with regard to all these 35 candidates and they have also given adequate reasons as to why the respondent no. 4 has been selected for the post. The contention of the applicant, therefore, that his case was not considered does not cut any ice and we find

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that the authorities concerned had very much considered his case and he was not found suitable. The applicant has further taken the plea that the respondent no. 4 is not a ^{permanent} resident of the village concerned and, therefore, he cannot be given any appointment. In this connection our attention has been invited to the decision of the Ernakulam Bench of this Tribunal reported in 1993 = (24) ATC 59 (P.V. Kochuthresia Vs. Superintendent of Post Offices, Aluva & Oths.) where it was held that requirement of being permanent resident of the village concerned in which the post office is situated is 'unconstitutional'. Such a condition cannot be read down as a condition subsequent to appointment. The respondents were directed to replace the condition of residence simpliciter to be fulfilled subsequent to selection and appointment. Therefore, the contention made by the applicant as regards the 'permanent' residence of respondent no. 4 does not hold good.

4. Mr. Chatterjee, 1d. Counsel for the applicant, further submits that since the applicant has raised the plea of malafide in this case, it is necessary to obtain a reply as decided by the Hon'ble Apex Court. We have considered this aspect of Mr. Chatterjee's submission but we are of the view that simply because of using the expression 'malafide' does not make malafide involved in the process. The applicant has failed miserably to adduce any ground on the basis of which he could make the averment on verification that the action taken by the respondents in giving appointment to the respondent no. 4 is malafide. In view of such a position we are of the ^{opinion} view that no reply is required in this case, since the case is very simple and it can be decided on the basis of the records produced before us, by the respondents.

5. In view of the above, we do not find any merit in the application and, it is, therefore, dismissed at the stage of admission itself without passing any order as to costs.


(D. Purkayastha)
Member (J)


(B.C. Sarma)
Member (A)