

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 429 of 1997

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

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

ASHOKE KR. MONDAL

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. N. Bhattacharjee, counsel

For the respondents : Mr. S.K. Dutta, counsel

Heard on : 12.6.2000

Order on : 12.6.2000

O R D E R

D. Purkayastha, J.M.

This application has been filed by the applicant for getting the following reliefs :-

- "(a) The impugned order appointing the respondent No. 4 to the post of EDBPM Kalidaspur B.O., be set aside and quashed.
- (b) The respondents be directed to appoint the applicant to the post of EDBPM Kalidaspur with effect from the date the respondent No. 4 has been appointed if the applicant is otherwise found fit and suitable for the post.
- (c) The respondents be directed to pay allowances to the applicant from the date of such appointment to the date of his joining the post of EDBPM Kalidaspur.
- (d) Such other or further order or orders as to Your Lordships may deem fit and proper!"

According to the applicant, the private respondent No. 4, Sri Bikash Maity who has been appointed to the post of Extra Departmental Branch Post Master, ^{is not entitled for the said} ~~is not entitled~~ post as per rules. It is ~~alleged~~ by the applicant that the respondent No. 4 has no landed property on the date of his selection, which is a condition precedent for such appointment

and therefore, the private respondent No. 4 has been selected and appointed by the official respondents violating the rules of recruitment. It is further stated by the applicant that he has landed property and other requisite qualifications for appointment to the said post, but the respondents ~~did~~ not consider him for appointment and ignoring his legitimate claim, they appointed respondent No. 4 to the said post. So, the appointment of private respondent No. 4 should be cancelled and he should be appointed in place of private respondent No. 4 at Kalidaspur Branch post Office.

2. Respondents have filed written reply denying the claim of the applicant. It is stated by the respondents that the applicant had no income of his own and he could not produce any records ~~in support of~~ his statement that he has ownership of landed property at the time of selection or before; moreover on examination of testimonials it was found that the respondent No. 4 (who has been selected for appointment) secured 52.53% marks in Madhyamik Examination whereas the applicant got only 46.66% marks in the said examination. Therefore, the private respondent No. 4 has been duly selected by the official respondents considering his merit. It is also stated by the respondents that the private respondent No. 4 has produced the documents in respect of the requisite landed property and it has been ascertained from the competent authority that he has landed property vide registered Deed No. 4129 for 1996 of Basanti Sub-Registry Office dated 31.7.96 and Hasnabad Sub-Registry Office registered Deed No. 9345 dated 27.11.84. Therefore, no irregularity has been done in the matter of selection to the post of EDBPM at Kalidaspur Branch Post Office.

3. We have heard the ~~ld.~~ counsel for both sides and have perused the ~~records.~~ We have gone through the application form which has been filled up by the applicant at the time of selection to the post of EDBPM at Kalidaspur Branch Post Office and on a perusal of ~~that~~ form it appears that the

applicant himself stated that he has no immovable property. Moreover, on a perusal of the merit list we find that the respondent No. 4 has got higher marks than the applicant in the Madhyamik Examination and possesses all other requisite qualification for being selected in the post of EDBPM. Therefore, we are unable to accept the contention of the ld. counsel for the applicant that the private respondent No. 4 has been selected by the authorities violating the rules. We find of respondent No. 4 that selection to the post of EDBPM at Kalidaspur Branch Post Office has been done in accordance with the rules on the basis of merit of the candidates and merit should be given first preference in the matter of selection to such posts as per the opinion of the Hon'ble Apex Court in several judgments.

4. In view of the above, we find no merit in this O.A. and we dismiss the same as being devoid of any merit. No cost.

S. Sugunan
126.2000
MEMBER(A)

H. D.
14/12/2000
MEMBER(J)

16000