

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

C.A. 514 of 1997

Date of order : 17.5.04

Present : Hon'ble Mr. N. Prusty, Member (J)

Hon'ble Mr. M.K.Mishra, Member (A)

PRANAB KR.NAYEK

VS

UNION OF INDIA & ORS.

For the applicant : Mr.J.K.Gupta, counsel

For the respondents: Mr.B.K.Chatterjee, counsel (Resp.No.1 to 4)
Mr.S.K.Dutta, counsel (Resp.No.5)

O R D E R

N. Prusty, J.M.:

Heard Mr.J.K.Gupta, ld. counsel for the applicant,
Mr.B.K.Chatterjee, ld. counsel for the official respondents and
Mr.S.K.Dutta, ld. counsel for the private respondent.

2. The applicant in response to notice dated 10.2.97 of
Employment Exchange applied for the post of EDDA at Behar Post Office,
District - Bankura and faced the process of selection. The interview
for the post was conducted on 18.3.97. The applicant participated in
the interview along with other 19 candidates.

3. Ld.counsel for the applicant submits that the applicant
secured 509 marks out of 900 in Madhyamik Examination, 1983 which
includes 11 marks added as additional marks in favour of the
applicant. As such excluding the above 11 marks the applicant has
secured 498 marks out of 900. The Private Respondent No.5 secured 518
marks out of 1000 in Madhyamik Examination, 1980. As such the present
applicant has secured more percentage of marks than the Private
Respondent No.5 since he has secured 55.33% and the respondent No.5
has secured 51.88%.

4. The main contention of the applicant is that because the
Private Respondent No.5 secured 518 marks and he secured 509 marks,
the respondents without counting the percentage of marks secured by
them, only on the basis that the respondent No.5 had secured more marks



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an the applicant, had selected him. It is also contended by the ld. counsel for the applicant that both the applicant as well as respondent No.5 have complied with all other conditions for their selection to the post.

5. Mr.B.K.Chatterjee, ld.counsel for the respondents submits that when all the above matters are brought to the notice of the respondent authorities the Post Master General, SB Region, Calcutta-12 has cancelled the entire selection since the same was irregular and directed fresh selection be made from amongst the candidates of that test strictly according to the rules of the department. Mr.Chatterjee ld. counsel submits that since both the present applicant as well as the selected candidate (respondent No.5) have approached this Tribunal and the respondent No.5 got the interim order dated 24.2.99 in his favour in OA 183/99 that "the impugned order or termination dated 9.11.98 will remain stayed" and as such the respondent No.5 is continuing in the post by virtue of the above said interim order dated 24.2.99 passed in OA 183/99.

6. Ld.counsel also submits that once both these OAs are disposed of, immediately action shall be taken by the department to fill up the post by selecting a candidate from amongst those 20 candidates who appeared in the selection process of the year 1997, strictly in accordance with the rules as well as on the basis of higher percentage of marks secured by the respective candidates.

7. Mr.Dutta ld. counsel for the respondent No.5 submits that since the respondent No.5 is continuing in the said post for the last 6 years, he should be protected, by adjusting him in another similar post.

8. Considering the submissions made by the ld. counsel for both the parties and after going through the records, as it appears, the impugned selection, selecting respondent No.5 for the post appears to be completely unjust and illegal. ^{✓ and hence the same is set aside..✓} The respondent authorities more particularly, respondent No.3 of is accordingly directed to take



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immediate action in the matter on the basis of the order of the Post Master General, SB Region, Calcutta-12 dated 27.10.98 and complete the entire selection process as early as possible, preferably within a period of 2 months from the date of receipt of the copy of the order, strictly on the basis of percentage of marks secured by the respective candidates as well as subject to fulfillment of all other conditions in accordance with law and issue appointment order in favour of the successful candidates within a period of 2 weeks from the date of completion of such selection. It is made clear that so far as the age is concerned the same shall be taken into account as on the date of selection in 1997.

7. OA is accordingly allowed. No order as to costs.



MEMBER (A)

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MEMBER (J)