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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A.NO. 674/92

Lucknow, this the 20th day of March, 2001.

Hon'ble Shri D.C. Verma, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

Ajay Prakash Srivastava, aged about 33 years,
S/O Sh. Hamman Prasad Srivastava,
R/O Village - Sodhiyawan, Post Sodhiyawan
Distt. Faizabad.

.....Applicant.

(By Advocate: Shri R.K. Srivastava)

Versus

1. Union of India through its Secretary,
Department of Communication, New Delhi.
2. The Senior Superintendent of Post Offices
Faizabad Division, Faizabad.
3. The Inspector of Post Offices, South Faizabad.
4. Sri Sahab Ram Diwedi, Presently working as
E.D.B.P.M. Sodhiyawan Sub Office,
Barun Bazar, Faizabad.

.....Respondents.

(By Advocate: Dr. D. Chandra)

O R D E R

By Hon'ble Shri S.A.T. Rizvi, Member (A):

The appointment of Sh. Sahab Ram Diwedi, respondent No.4 herein, as E.D.B.P.M. in Sodhiyawan Sub Office, Distt. Faizabad has led to this OA in which the applicant seeks quashing of the respondents' order dated 28.12.1992 by which the aforesaid Sh. Diwedi has been appointed. The prayer made ^{inter alia} for a direction to the respondents to make an appointment on the aforesaid post after following the procedure laid down in the relevant rules. The respondents seek to contest the OA and have filed their counter affidavit followed by a supplementary C.A. Rejoinder Affidavit ~~there~~ has been filed by the applicant.

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2o Heard the learned counsel on either side and have perused the material placed on record.

3o The facts of the present OA briefly stated are that the post of EDBPM, Sodhiyawan Sub Office in Distt. Faizabad was going to fall vacant w.e.f. 1.1.1993 ^{& in July '92} when the respondents initiated the process for the appointment of a new incumbent. Accordingly, a requisition was sent to the employment exchange on 31.7.1992. The Employment exchange sponsored only one candidate and, therefore, in accordance with the relevant rules, the vacancy was advertised by direct notification specifying 16.9.1992 as the last date for ^{of} the receipt/applications. The aforesaid notification was issued on 2.9.92. In response to the aforesaid notification, 8 persons applied, including the candidate earlier sponsored by the employment exchange. The applicant in the present OA was one of them. The respondents duly verified the applications received and found that five applicants, including the applicant in the present OA, had not produced ~~the~~ ^{& to be} certificates of income from independent sources, obtained from the revenue authority. Another candidate got employed elsewhere and did not produce any certificate whatsoever. Out of the remaining two applicants, one had no proper accommodation to maintain a Post Office. Thus, Sh. S.R. Dawod, respondent No. 4 herein, was left alone in the field for consideration and [&] ~~an~~ appointment against the aforesaid vacancy.

4o The learned counsel appearing for the applicant has submitted that the applicant was properly qualified in all respects for appointment as an EDBPM and he had duly applied for appointment against the vacancy in

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question within the time prescribed by the respondents. According to the learned counsel, the applicant has ^{however,} not been considered for the reason that though he was at the material time working against an elective post of a member of Gram Sabha, his resignation from the aforesaid post had not been accepted by the last date prescribed by the respondents for the submissions of ^{the} applications. According to him, there is nothing wrong if the resignation of the applicant from the aforesaid elective post had not been accepted by the last date in question, i.e. ^{by} 16.9.1992. The respondents should have accepted his application for appointment and should have considered the same even if the resignation aforesaid had been accepted properly and according to law on a later date ^{though} before the appointment was made. The relevant date, according to the learned counsel, should be any date before the issuance of the appointment order. Admittedly, the resignation in question was accepted in the ^{later} half of November, 1992 and the applicant succeeded in furnishing other relevant documents also much after the prescribed date (16.9.1992).

50. The learned counsel appearing for the respondents has drawn our attention to the public notice dated 2.9.92 issued by the respondents inviting applications for the post in question. The same lays down that the applications received after 16.9.1992 will not be considered and those found incomplete will also not be considered. That an applicant should not be holding an elective post has been prescribed as one of the qualifications in the said public notice which goes on to provide that all the conditions of eligibility laid down in the notice, should be satisfied

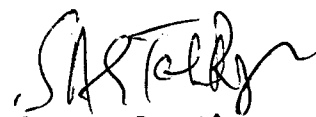
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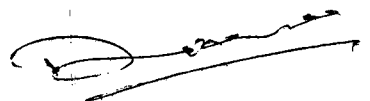
by the last date, namely, by 16.9.1992. The same also lays down clearly that eligibility acquired after the aforesaid last date will not be acceptable. The learned counsel for respondents has argued that according to his own admission, the applicant was still holding the aforesaid elective post on 16.9.1992 and even thereafter and the other relevant documents were also furnished by him after 16.9.92. According to the learned counsel, as prescribed in the aforesaid public notice, the applicant had not declared his income as well as the source of income in the application dated 15.9.92 ^{which is} he had filed for appointment in the post in question. Likewise, he had also not declared that he was then holding the aforesaid elective post. Thus, according to him, the applicant on the one hand failed to disclose the ^{aforesaid} material information in his application, on the other hand, he has submitted the relevant material information much after the prescribed date notified in the aforesaid public notice. According to the learned counsel, in accordance with the principle of natural justice and on considerations of equity and fairplay, the applicant alone could not be permitted to fulfill^y the prescribed conditions after the notified date. Allowing the applicant to do so, would have amounted to a discriminatory act. Furthermore, the process of selection, according to the learned counsel, had been completed by 9.11.92 and the result in favour of Shri S.R. Dixedi was duly declared on the same date. The applicant is, according to law, entitled only for being considered. He cannot claim a right to be appointed. According to the learned counsel, the applicant's ^{duly} candidature was considered but he could not be appointed for the reasons already mentioned above and in the preceding paragraphs. 2

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6. For all the reasons outlined in the preceding paragraphs and in agreement with the pleas advanced by the learned counsel for the respondents, we find that the OA lacks merit and deserves to be dismissed. The same is accordingly dismissed without any order as to costs.


(S.A.T. Rizvi)
Member (A)

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(D. C. Verma)
Member (J)