

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

REGISTRATION NO. O.A. 43 of 1996

DATE OF ORDER : 27.02.2001.

Md. Khateeb Alam, son of Md. Owais Alam, resident of village and P.O. Hareba, P.S. Salkhua via A Salkhua Bazar, District Saharsa (Bihar)

.....APPLICANT.

(Through Shri S.N. Tiwary, Advocate)

Versus

1. The Union of India through the Secretary, Govt. of India, Ministry of Communication, Deptt. of Posts -cum- the Director General, Deptt. of Posts, India, Dak Bhawan, New Delhi - 110001.
2. The Chief Postmaster General, Bihar Circle, Patna.1
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Director of Postal Services, N. Region, Muzaffarpur -2
5. The Superintendent of Post Offices, Saharsa Division, Saharsa -1
6. The Sub-divisional Inspector (Postal) Saharsa West Sub-division, Saharsa -1.
7. Shri Sudhir Prasad Yadav, son of Shri Vidyanand Prasad Yadav, ED Branch Postmaster, P.O. Hareba via Salkhua Bazar, P.S. Salkhua, Distt- Saharsa.

....RESPONDENTS.

(Through Shri H.P. Singh, Addl. Standing Counsel & Shri N.P. Sinha with Shri I.D. Prasad for private respondent no. 7)

C O R A M

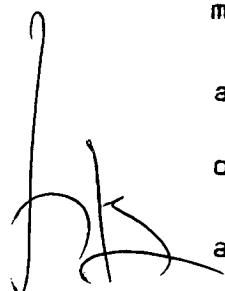
Hon'ble Shri Lakshman Jha, Member (J)
Hon'ble Shri L. Hmingliana, Member (A)

O R D E R

L. Hmingliana, Member (A):- The applicant and the respondent no. 7 were among the six applicants for

appointment to the post of EDBPM Hareba EDBO in Saharsa Postal Division in response to the open advertisement dated 5.12.1995 issued by the Superintendent of Post Offices. The applicant was the candidate with the highest marks in matriculation or equivalent examination, but respondent no. 7 was selected and appointed to the post. This OA is for quashing the appointment of respondents no. 7 vide memo dated 5.12.1995 and for appointment of the applicant to the post in his place.

2. The requisition for appointment to the post of EDBPM, Hareba was sent by the Superintendent of Post Offices, Saharsa Division to the Employment Exchange, Saharsa, but the Employment Exchange did not send the list of sponsored candidates before the due date, and the post was advertised locally on 20.12.1995, and the last date for receipt of applications was 18.11.1995. The applications were received from ~~the~~ six candidates, including the applicant and the respondent no. 7. The applicant was the candidate with the highest marks in matriculation examination or equivalent examination, and the respondent no. 7 was next to him in ^{the} number of marks secured at the prescribed examination. The advertisement dated 20.10.1995 mentioned that the applicants should have land mutated in their



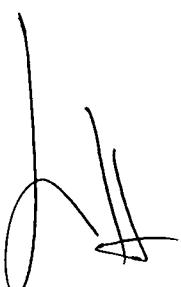
own name , and they should also have revenue receipt. The last date for receipt of applications was fixed at 18.11.1995, and it was specifically stated that the applications should be with complete requisites, and the application, without complete requisite will not be entertained. Nevertheless, all the six applicants were called upon to attend the verification of documents by the SDI, Saharsa Postal Division, West, who was appointed for the purpose of verification of documents.

3. It is the case of the applicant that he got 3.06 acres of land from his father as a gift , and the gift deed was registered on 14.11.1995, which was prior to the cut-off date for submission of applications, and he also produced revenue rent receipt dated 23.11.1995 at the time of verification of documents on 28.11.1995, and handed it over to the SDI. It is his case that he was eligible for appointment to the post, and as the candidate with the highest marks in the prescribed examination, he was entitled to be appointed. As regards respondent ^{that} no. 7, it is the case of the applicant the officer-in-charge , Salkhua P.S reported to the Superintendent of Post Offices vide letter no. 1053 dated 11.2.1995 that he had criminal activities , and having less

marks than himself, he was not entitled to be appointed to the post.

4. It is stated in the written statement filed on behalf of the official respondents that in the verification report submitted by the Sub-divisional Inspector, it was stated that the applicant had ~~of land~~ 3 acres and 6 decimals through his father vide deed No. 11939 of 1995 dated 13.11.1995, and the land was found to have been mutated in his own name on 23.11.95, and the land revenue receipt was also found to have been issued on the same date. In continuation of that submission, it is further stated that since the applicant did not fulfil the condition of ownership of property by the 1st date fixed for receipt of applications, his candidature was not considered. The Reliance is placed upon the instruction contained in Director General of Post's letter dated 18.9.1995. As regards the allegation of the applicant that the respondent no. 7 had criminal record, it is stated in the written statement that the O.C, Salkhua police station vide his endorsement dated 7.12.95 intimated that there was no complaint of any nature in the crime diary of the police station.

5. It will appear that the applicant did not submit any document showing his possession of land



along with his application, even though he had already got 3 acres and 6 decimal of $\frac{1}{2}$ land as gift from his father, and the gift deed was also registered on 14.11.1995. Shri S.N. Tiwary, learned counsel for the applicant cited the judgement of the Supreme Court in Smt. Sawarni vs. Smt. Inder Kaur and others, AIR, 1996 SC 2823, in which the Supreme Court observed that "the mutation of a property in the revenue record does not create ^{or} extinguish ~~extinguished~~ title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question." He argued that the applicant is entitled to be treated as eligible for appointment to the post as it is clear that he possessed landed property, which is requirement for appointment.

6. Shri H.P. Singh, learned Addl. Standing Counsel for the official respondents countered by pointing out that the mutation of land on or before the last date for receipt of applications was specifically mentioned as a necessary condition for acceptance of application. He argued that the applicant had not furnished documentary evidence of his possession of land along with his application, and was, therefore, ineligible for the appointment.

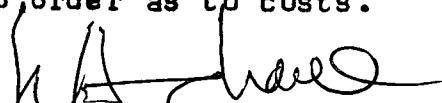


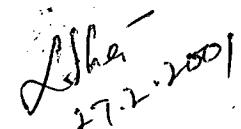
7. It is true that in the instructions contained in letter dated 18.9.1995 of the Director General of Posts, ^{it is stated that} in rarest case, if the applicant at the time of application ^{satisfy} does not ~~satisfy~~ income or property condition, but acquires qualification subsequent to the submission of the application, and send written request enclosing documentary evidence in continuation of his application, and the same is received within the stipulated date, the recruiting authority should entertain the same.

In the present matter, it is not the case of the applicant that he sent such written intimation in continuation of his application for appointment to the post, ^{and} the instructions given by the Director General of Posts will not apply to his case, as the advertisement made it clear in no uncertain terms that ~~the~~ documents in support of application had to be received before the closing date for receipt of applications. It is evident that the applicant ~~efforts~~ made ~~efforts~~ to meet the requirement of possession of landed property, and he did succeed in getting a gift of land from his father before the closing date for receipt of applications, ^{but} it is evident that he did not submit even the photostat copy of the gift deed. Then, the applicant did not fulfil

the requirements of the advertisement, and he rendered himself ineligible for appointment to the post. Allowing the candidates to produce documents subsequently beyond ^{the} closing date for receipt of applications could create a lot of complication, and in our opinion, it will be entirely unjust for the applicants who fulfill the requirements by the last date for receipt of applications. The application has to fail.

8. The application is dismissed. There shall be no order as to costs.


(L. HMINGLIANA) 272300
MEMBER (A)


27.2.2001
(LAKSHMAN JHA)
MEMBER (J)

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