

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A.No. : 283/96

DATE OF DECISION: 25-OCT-2000.

Raj Kishore Singh, son of Late Ram Bayal Singh, resident of village and P.O.: Mishraulia, via. Chiraiya, District East Champaran, at present working on the post of EDA-cum-EDMC at Mishraulia Branch Post Office in account with Chiraiya S.O.APPLICANT.

By Advocate : Shri J.K.Karn.

vs.

1. The Union of India, through the Secretary-cum-D.G., Department of Posts, Dak Bhavan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Supdt. of Post Offices, Champaran Division, Motihari.
5. The Sub-Divisional Inspector of Post Offices, Motihari, East Sub-Division, Motihari.RESPONDENTS.

By Advocate : Mr. V.M.K.Sinha, SSC.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.

HON'BLE MR. L.R.K.PRASAD, MEMBER (ADMINISTRATIVE).

O R D E R

JUSTICE S.NARAYAN, V.C.:- The applicant, Raj Kishore Singh, has impugned an order dated, 4th May, 1996, issued by the respondent no.5 i.e., the Sub-Divisional Inspector of Post Offices, Motihari, which speaks that in pursuance of order contained in Postmaster General, Northern Region, Muzaffarpur, memo no. Staff/ED-52/95, dated, 3rd (Annex-R/1) April, 1996, ^hconveyed under the Supdt. of Post Offices, Motihari, letter No. H1-18/Mishraulia/L dated, 25th April, 1996 (Annexure-R/2), the appointment of the applicant as EDDA-cum-MC, Mishraulia EDBD is ~~is~~ cancelled with immediate effect, vide Annexure-A/1.

2. Admittedly, the applicant was one amongst the seven candidates, sponsored by the Employment Exchange

in response to an employment notice dated, 23rd January, 1995 (Annexure-A/2), issued by the respondent no.6; and as a result of the selection process concluded, he (the applicant) was provisionally appointed to the post of EDDA-cum-MC, Mishraulia EDBI by an order dated, 6th May, 1995 (Annexure-A/3), issued by the respondent no.5. The applicant soon thereafter, joined the post and he has now ceased to work as a result of the impugned order dated, 4th May, 1996 (Annexure-A/1), terminating his services with immediate effect.

3. The question, therefore, arises whether the impugned termination order was valid in the eye of law or not ?

4. The whole selection process, through which the applicant was appointed, appears to have been reviewed by the Postmaster General, Northern Region, Muzaffarpur, pursuant to an order dated, 30th November, 1995, passed by this Tribunal in OA No.682 of 1995, filed by one Sujeeet Kumar, who, being one amongst the sponsored candidates, had participated in the selection process and, inspite of having secured better marks in the matriculation standard, as compared to that of the present applicant, ^{he} had not been selected. By the earlier order passed in the OA No.682/95, the Postmaster General, Northern Region, Muzaffapur, was directed to dispose of the representation dated, 24th May, 1995, of Sujeeet Kumar Thakur, by speaking and reasoned order after giving him an opportunity of personal hearing.

5. During the course of review, it was revealed that though the post-in-question was reserved for scheduled caste candidate, the appointment was made of a candidate belonging to other community. Be it recorded here that even though the employment notice dated, 23rd Jan. 1995

(Annexure-A/2), clearly mentioned that the post was reserved for scheduled caste community, the employment exchange sponsored the names of only seven candidates who all belonged to other communities. None from the scheduled caste community was sponsored by the Employment Exchange. This alone appears to be the primary consideration made in the review by the Postmaster General, Northern Region, Muzaffarpur, for cancellation of the applicant's appointment. We find no reason to dis-agree with the stand taken by the respondents for the simple reason that at paragraph no.5 of the employment notice (Annexure-A/2), it was definitely mentioned that the post-in-question was reserved for scheduled caste community.

6. However, in order to get rid of the implication of the aforesaid clause of reservation for scheduled caste community, it was submitted on behalf of the applicant that a liberty was given to the Employment Exchange to the effect that if no candidate from scheduled caste community was found suitable, the nomination of other community candidates could be sent. Here, we would say that the provision of reservation for scheduled caste community was not a mere formality, nor could it be ignored with any over-riding clause. We are of the view that if a post is ear-marked and is reserved for scheduled caste community, an all-out effort has to be made by the concerned authority to ensure that the candidature of such a reserved community is duly considered. The appointing authority of the Postal Department was vested with the onerous responsibility to see that if any such candidate of reserved community was available and was suitable for consideration or not. Such responsibility can not be shifted to the Employment Exchange alone. Here, it has been rightly urged on behalf of the respondents that in case, the Employment Exchange has failed to sponsor



the names of such reserved scheduled caste community, it was incumbent upon the appointing authority to have called for the names from open market by issuing public notice. The failure to issue such public notice becomes very much significant in the given facts and circumstances of the instant OA; and we would, therefore, concur with the view as expressed by and on behalf of the official respondents.

7. Therefore, the respondent no.5 was under constitutional obligation to make an all-out effort to secure proper and adequate representation of scheduled caste community, as also significantly mentioned in the employment notice (Annexure-A/2), but he utterly failed to discharge this obligation. Hence, the applicant's appointment to the post of EDDA-cum-MC would be deemed to be invalid and against the established norms of law. Apart from this, it was also significant to note that even amongst the candidates of other communities, there were some other candidates in the field of consideration securing higher marks in the matriculation standard.

8. For the reasons, aforesaid, the instant OA has no merit to succeed and, accordingly, it is dismissed with no order as to costs.

25/10/2006

(L.R.K.PRASAD)
MEMBER(A)

skj

(S.NARAYAN)
VICE-CHAIRMAN

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25.10.2006