

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No.623 of 1996

Date of order ^{HK} -5-2001

Om Prakash Singh, son of Shri Shesh Nath Singh,
Village Itwan, PO Itwan Bartwalia, via Pachrukhi,
P.S. Pachrukhi, District Siwan.

.. Applicant

-versus-

1. The Union of India, through the secretary,
Govt. of India, Ministry of Communications,
Department of Posts, New Delhi-cum-Director
General, Department of Posts, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna-1.
3. The Postmaster General, North Bihar Region,
Muzaffarpur.
4. The Director of Postal Services, North Bihar
Region, Muzaffarpur-2.
5. The Superintendent of post Offices, Siwan Division,
Siwan.
6. The subdivisional Inspector (Postal), Siwan Central
Sub-Division, Siwan-26.
7. Smt. Geeta Devi, wife of Sri Bachu Singh, EDBPM,
PO Itwan Bartwalia, District Siwan.

.. Respondents

Counsel for the applicant .. Shri S.N.Tiwary.

Counsel for the respondents ..Shri V.M.K. Sinha.

Counsel for the private respondent..Shri N.P.Sinha.

C O R A M : Hon'ble Mr. Justice S. Narayan, Vice-Chairman
Hon'ble Mr. L. ^{Heminchiana} ~~Heminchiana~~, Member (A)

O R D E R

S. Narayan, Vice-Chairman:-

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This application has been filed against
renotification of the vacancy for appointment to the
post of EDBPM of Itwan Bartaulia, Extra-Departmental
Branch Postmaster in Siwan Postal Division, vide letter

dated 31.10.1996 and 5.11.1996 (Annexures A/1 and A/1(a) issued by the Superintendent of Post Offices, Siwan Division, Siwan.

2. We have heard the learned counsel for the parties and perused the materials on record.

3. The background of the case is that when the post of EDBPM of Itwan Bartaulia EDBO fell vacant, the Superintendent of Post Offices, Siwan (respondent no.5) requested the District Employment Exchange, Siwan, vide his letter dated 4.4.1996 (Annexure-A/2) to sponsor the names of candidates in the light of qualifications and conditions prescribed therein within a period of 30 days. Names of three candidates including that of applicant were sponsored by the Employment Exchange on 26.4.1996 which was received in the office of Superintendent of Post Offices, Siwan Division. On 8.5.1996 (Annexure-A/3) the applicant was asked to submit certificates and documents within 10 days. Instead of proceeding further in the matter on the basis of his letter dated 4.4.1996 (Annexure-A/2), the respondent no.5 allegedly under the influence of some persons requested the Employment Exchange to sponsor names of some more candidates. Accordingly, the Employment Exchange forwarded names of four candidates on 11.5.1996 which was received in the office of respondent no.5 on 14.5.1996. Their names are quoted in para 4.7 of the O.A. The applicant along with all sponsored candidates by the Employment Exchange were asked to appear before the Sub-Divisional Inspector (Postal), ~~Central~~ Sub-Division, Siwan (respondent no.6) on 21.6.1996 with original certificates for the purpose of verification. The applicant

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accordingly appeared and his certificates were verified. It is stated that he fulfilled all the requisite qualifications/conditions. Para 4.9 of the O.A. gives the details regarding eligibility and suitability of the applicant for the post in question. According to the applicant, he was the most suitable amongst the candidates, whose names were sponsored by the Employment Exchange on 26.4.1996. It is alleged that as respondent no.5 was ~~interested in~~ some other person, he called for additional list from the Employment Exchange which was received on 11.5.1996. The interview letter dated 13.6.1996 (Annexure-A/4) was issued to all candidates including those whose names had been received from the Employment Exchange in response to notification dated 4.4.1996. The name of one Smt. ~~Geeta~~ Devi was included in the second list sponsored by the Employment Exchange on request. It is further alleged that the then Superintendent of Post Offices, Siwan Division, Shri B.Singh, was ~~due~~ for superannuation on 31.10.1996, as such, he was not empowered to make appointment or take any action in this regard. As he came to know that he was not competent to ask for additional names from the Employment Exchange on the basis of earlier notification on the date of retirement, he requested the Employment Exchange to send fresh names of candidates by 11.11.1996. This, according to the applicant, is irregular, arbitrary and unconstitutional. Further development in the matter is that the date for sponsoring the candidates was extended to 30.11.1996. The applicant has challenged the re-notification of vacancy. According to him, the concerned authority should have completed the process of

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selection with reference to the notification dated 4.4.1996 ~~was at~~ Annexure-A/2 for the post of EDBPM, Bartaulia. As per law, there was no need for their calling for additional names or re-notifying the vacancy. It is alleged that re-notification was done with a view to accommodate a particular person. In view of the position explained above, the applicant has sought reliefs in the following terms:-

- (a) That the respondents may be directed to make appointment against the post of EDBPM of Itwan Bartaulia EDBO from the list of the candidates sent by the Employment Exchange in response to requisition made vide Supdt. of Post Offices Siwan Dn. (respondent no.5) letter no.H-23-70/71 dated 4.4.96 contained in Annexure-A/2 and appoint the applicant as EDBPM of Itwan Bartaulia EDBO.
- (b) That the list of the candidates sent by the Employment Exchange on 11.5.1996 and the list sent in response to requisition made vide letters dated 31.10.96 and 5.11.96 contained in Annexures-A/1 and A/1(a) respectively may be quashed and set aside.
- (c) That the appointment of Smt.Gita Devi w/o Shri Bacha Singh, resident of Village and P.O. Itwa Bartawalia via Pachrukhi Distt. Siwan (respondent no.7) ordered vide Memo No. Hi-23/70-71 dated 21.1.1997 (Annexure-A/2) issued by the Supdt. may be quashed and set aside.
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(d) That any other reliefs deemed fit and proper may be allowed.

4. While opposing the above application, the respondents have stated the background leading to re-notification of vacancy. It is admitted that when the post in question fell vacant, the vacancy was advertised and the local Employment Exchange was requested on 4.4.1996 to sponsor names of candidates for the post within 30 days. In response, the Employment Exchange sponsored names of 3 candidates which included the applicant. These 3 candidates were asked to submit their original documents/certificates for the purpose of verification. On 9.5.1996, five more names, including respondent no.7, were forwarded by the Employment Exchange. A query was made from the Employment Exchange with regard to forwarding of second list. The Employment Exchange clarified that applications of second list ~~was~~ received in the Employment Exchange on 27.4.1996 but the same could not be sent to respondent no.5 due to general Lok Sabha election and closure of his office, as such, it was considered necessary to include these names in the second list. After verification of the case, report was sent to Postmaster General (North), Muzaffarpur. The appointment file was returned by Postmaster General (North) on 10.10.1996 with the direction to make open advertisement. In pursuance to the aforesaid direction, the vacancy was re-notified on 31.10.1996 and the last date for receipt of application was fixed on 30.11.1996. In response to aforesaid advertisement, 12 candidates including the applicant as well as respondent no.7 submitted their application. They were

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asked to submit the necessary documents within 10 days. The relevant file and connected papers were sent to SDI(P), Siwan Central, for verification. The SDI(P) submitted his report on 3.1.1997 to the Superintendent of Post Offices, Siwan Division. The comparative merit chart of 12 candidates have been demonstrated in para 2 of the written statement. It appears that out of 12 candidates Shri Bacha Singh was not willing to work in the said post. Shri Manoj Kumar Mishra, Shri Birendra Singh, Shri Bipender Kumar, Shri Bijai Kumar, Shri Sanjai Kumar Azad and Shri Nand Kumar Singh did not turn up for verification on 2.1.1997. Therefore, the consideration was confined to 5 candidates and their comparative position, as stated in the W.S., is summarised below:-

- "1. Smt. Geeta Devi, wife of Shri Bacha Singh village and Post Office Itwa-Bartwalia via Pachrukha. She belongs to post village having date of birth as 25.02.1997. She is matriculate having secured aggregate marks 479 out of 900. She has 10 katha of land; mutation completed within the date. She has given 30,000/- annual income as certified by Circle Office. She has suitable accommodation to locate the Post Office. She belongs to other Backward Class community.
3. Shri Gulabchand Sah, son of Shri Biker [redacted] Village and Post Office Itwa Bartwalia via Pachrukhi. He is matriculate in 3rd division and having 263 marks. He has got 2-3-12-05 land in his own name.
4. Shri Hira Lal Azad, son of Shri Ram Janam Ram of village and Post Office Itwa Bartwalia via Pachrukhi. He is resident of post village. He has suitable accommodation to locate the Post Office. He is Matriculate having marks 571 out of 900. He belongs to Scheduled Caste community. The land was registered in his name on 09.12.1996 and mutation on 26.12.1996 beyond the date of vacancy period.
5. Babita Kumari, daughter of Shri Rajendra Singh Village post Itwa Bartwalia. She is resident of post village. She is matriculate having

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secured 565 out of 900 full marks. Her date of birth is 15.08.1975. She has got 0-10-4 land in her own name. The land was registered on 14.11.1996 and mutation was done on 3.12.1996 beyond the date of vacancy period.

6. ~~Shri~~ Kamlesh Kumar, son of Shri Chanderdeo Singh, village and Post Office Itwa Bartwalia Via Pachrukhi. He is matriculate from U.P. and secured 457 marks out of 600 marks. He has got no landed property."

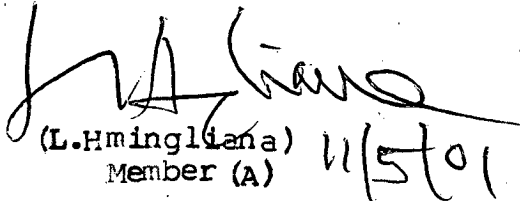
5. According to respondents, Smt. Geeta Devi (respondent no.7) was selected to the post of EDBPM, Itwa Bartwalia as she was considered the most suitable candidate for the post on overall consideration of the matter even though she had less marks in Matriculation than some other candidates whose cases were rejected on the ground of submitting registration/mutation paper beyond vacancy period or having no landed property, as stated above. It appears that the applicant did not apply in response to the re-notification. While the applicant had got 447 marks in Matriculation examination, respondent no.7 secured 479 ~~marks out of~~ 900.

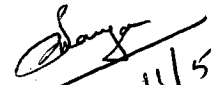
6. At this stage it may be pointed out that the competent authority is authorised to take appropriate decision in the matter of advertisement, re-advertisement for the post in question. As in the instant case, some defects were noticed, with regard to earlier notification and sending of second list of candidates, the respondents took fresh decision ~~for re-notifying~~ the vacancy in question through their letter dated 31.10.1996 (Annexure-A/1) which was modified by their letter dated 5.11.1996 (Annexure-A/a(a)). It is admitted fact ~~that~~ with reference to earlier notification dated 4.4.1996, the selection process had not been completed and nobody was declared selected. In view of what has been stated above, if some defects had come to the knowledge of the concerned respondents with

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regard to earlier notification, they have every right to renotify the vacancy. As such, we do not find that any illegality has been committed by the respondents in renotifying the vacancy vide letters dated 31.10.1996 and 5.11.1996 (supra). It appears that the renotification was done at a higher level, i.e., under the direction of the Postmaster General, North Bihar Region, Muzaffarpur. The applicant has also failed to establish the allegation that renotification was done with a view to favour a particular candidate.

7. On overall consideration of the matter, as stated above, we do not find any merit in the instant O.A. and the same is accordingly dismissed with no order as to the costs.


(L. H. Mingliana)
Member (A) 11/5/01


(S. Narayan)
Vice-Chairman 11/5/01