

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A.

O.A.No.: 253 of 1996.

(Patna, this Tuesday, the 4th Day of February, 2003).

C O R A M

The Hon'ble Mr. Justice B.N.Singh Neelam, Vice-Chairman.

The Hon'ble Mr. L.R.K.Prasad, Member (Administrative).

Abdul Jabbar, son of Shri Abdul Sattar, resident of village & P.O.: Shyam Nagar Nima, via. Sher Ghatti, P.S.: Ama/
District Gaya. APPLICANT.

By Advocate :- Mr. S.N.Tiwary.

Vs.

1. The Union of India through the Secretary, Govt. of India, Ministry of Communication, Department of Posts, New Delhi-cum-The Director General, Department of Posts, India, Dak Bhavan, New Delhi-110 001.
2. The Chief Postmaster General, Bihar Circle, Patna-1.
3. The Postmaster General, South Bihar Region, Ranchi-2.
4. The Director of Postal Services, South Bihar Region, Ranchi-2.
5. The Superintendent of Post Offices, Aurangabad Division, Aurangabad (Bihar).
6. The Sub-Divisional Inspector (Postal), Sherghati, Sub-Division, P.O.: Sherghati, Dist : Gaya.
7. Smt. Lalita Kumari, w/o Shri Dudheshwar Singh, EDBPM, Village & P.O.: Shyam Nagar, Nima, P.S.: Anas, District : Gaya. RESPONDENTS.

By Advocate :- Mr. G.K.Agarwal,
Addl. Standing Counsel.

Mr. N.P.Sinha
(For Res. No.7).

O R D E R

Justice B.N.Singh Neelam, V.C.:- Heard Mr. S.N.Tiwary, the learned counsel appearing on behalf of the sole applicant, Abdul Jabbar, and Shri N.P.Sinha, the learned counsel appearing on behalf of the pvt. respondent no.7, Smt. Lalita Kumari, and Shri G.K.Agarwal, the learned Addl. Standing Counsel appearing on behalf of the official respondents. The matter relates to appointment to the post of EDBPM of Shyam Nagar Nima EDBO in Sherghati H.O. falling in Gaya Postal Division.

2.

On behalf of the applicant it is

pointed out that because of one Randeo Singh retiring and the said post getting vacant, advertisement was^{by through} made to the employment exchange and by filing this OA, the applicant has challenged the appointment letter dated, 17.02.1996 a copy of which is filed marked as Annexure-A/13, by which the private respondent no.7, Smt. Lalita Kumari, has been provisionally so appointed to the said post.

3. To cut short the matter, it has been submitted that after this advertisement, five names were so sponsored which included the names of the applicant and the private respondent no.7 and 12.12.1995 was fixed as the last date for receiving the application and this is not challenged that the applicant had ^Qnot secured more marks than that of ^{the}persons so appointed but his candidature was not so lastly considered on the ground that the applicant has failed with regard to his having sufficient means of livelihood and the land so claimed to be in his name was ^Qso ^Qmutated and on this score only his case was not so considered. It is pointed out that the applicant had in his name the gifted land vide deed of gift dated 05.12.1995 and the mutation was so also done on 17.01.1996 in respect of which the correction slip is so filed and rent receipt to that effect is also so granted in the name of the applicant on 08.12.1995 vide Annexure-A/9. It is also submitted by referring to the OA No. 109 of 1992, disposed of on 21.12.92, that under similar situation the applicant of that case was given relief. In this connection also a reference is made to AIR 1997 (Allahabad) 122A (Mistalak Hasan Vs. H.H. Nawab Saiyyad Murtaza Ali Khan Sahab). Hence, it is submitted that since the applicant had sufficient means of livelihood and there was mutation of land to the extent of 31½ D. in the name of the applicant vide chak no. 462 & 496 rather the applicant would have been given the offer to the post

of EDBPM under challenge.

4. Mr. N.P.Sinha, the learned counsel appearing on behalf of the private respondent no.7 has submitted that, Smt. Lalita Kumar, is working to the post of EDBPM in question since the date of her appointment ^{made} in February, 1996, and without any blemish record is capable enough to render the services of EDBPM very smoothly and as per the terms and conditions of the advertisement the candidates ^{at work} ~~are~~ required also to furnish the details of the properties in his/her name on the date of application with the mutation in the name of the owner as to see that the said property is unincumbered and furthermore, in the notification so made for filling-up the said post when this condition was put that the person also to furnish the mutation order with that of the rent receipt, etc. for the land claimed by the ^{at candidate} ~~applicant~~ to be in his/her possession since that notification is not being challenged by the applicant, at this belated stage challenging the said condition of that notification cannot be entertained because it is in compliance of that notification, instead of challenging the same, the applicant had filed the application, had faced the interview when called for interview and thus, this OA so filed has got no leg to stand. Because the post of EDBPM is so given to the substantial person because they have also to deal with money because by way of security and abundant precaution this clause was so rightly put that the person claiming themselves ^{at for an post} ~~best~~ should have been sufficiently landed property in his name with mutation exclusively in the name of the ^{at candidate} ~~applicant~~ and since that has not been complied with by the applicant his case was not so rightly considered. It is submitted that surprisingly enough as per the applicant's case when the mutation was so done on 17.01.1996, vide correction slip so filed how is it that


for the said piece of land rent receipt was so granted on 08.12.1995¹⁹⁹⁵ itself. Our attention is also drawn to the discrepancy in Annexure-A/8 which is the copy of deed of gift. It is submitted that the same was so executed in making the applicant liable for consideration, but at page 28 where the details of chak number is so given, a reference is also made of the old survey plot no. which are 316 & 317 and no corroborative paper is so filed to show that the said chaks were comprised of those old plot numbers.

5. Mr. G.K. Agarwal, the learned Addl. Standing Counsel appearing on behalf of the respondents has particularly taken us to the averments so made by him in para-9 of the written statement so filed and it is submitted that elaborately it is detailed as to under what circumstance the case of the applicant was not so considered because of non-fulfilment of one of the vital conditions and hence, this O.A. thus so filed be rather dismissed.

6. After hearing the concerned lawyers, we have gone through the impugned orders with that of the documents so filed by the parties. We have also looked into the averments so made in the OA with that of the written statement so filed. In our considered opinion, there is much of strength in the argument so advanced by the learned Addl. Standing Counsel, appearing on behalf of the official respondents and the learned counsel appearing on behalf of the pvt. respondent that since the applicant had thus, not fulfilled one of the conditions of the advertisement, the official respondents were thus justified to give preference to the private respondent, Smt. Lalita Kumari, who was so appointed and the reasons so assigned for giving this preference to Smt. Lalita Kumari, seems to us satisfactory because of fulfilling all the conditions and taking that view, in our considered opinion, the order under challenge does not require any

interference as on the point of one of the conditions that the persons should have adequate means of livelihood and should have also filed papers to that effect relating to the landed property exclusively in the name of the applicant, that condition ^{of 1949} ~~has not been~~ fulfilled by the applicant. Even the applicant though filing correction slip and rent receipt has failed even to file ~~even before us~~ the copy of the mutation order which would have also been looked into, which is not so done.

Consequently, finding no merit in this O.A. the same thus, stands dismissed. Parties to bear their own costs.


(L.R.K. Prasad)
Member (A)


(B.N. Singh Neelam)
Vice-Chairman

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