

O/ 438/99

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI
CAMP AT AURANGABAD

ORIGINAL APPLICATION NO: 419/99, 437/99 and 438/99

the 3 day of DECEMBER 2001

COURT : Hon'ble Shri S.R. Adige, Vice Chairman (A)

Hon'ble Shri S.L. Jain, Member (J)

OA 419/99

Rajendra Pundalik Koli
Residing at Velhale Branch,
Post Office, At P.O. Taluka
Bhusawal, District - Jalgaon, ... Applicant

By Advocate Shri S.P. Kulkarni

V/s

1. Union of India through
Director of Postal Services
Aurangabad Region office of
Postmaster General
At P.O. Aurangabad
2. The Superintendent of Post
Offices, Bhusawal Division
At P.O. Bhusawal.
3. Postmaster General
Aurangabad Region
At. P.O. Aurangabad
4. Shri Kiran Suresh Patil
At P.O. Velhale Tal. Bhusawal
Dist. Jalgaon. ... Respondents.

By Advocate Shri V.S. Masurkar.

OA 437/99

Sanjay Kashinath Koli
Residing at : Melsangve
At P.O. Melsangve : Taluka
Kuktainagar, Dt. Jalgaon ... Applicant

By Advocate Shri S.P. Kulkarni.

V/s

1. Union of India through
Director of Postal Services
Aurangabad Region,
Office of Postmaster General
At. P.O. Aurangabad.
2. Superintendent of Post
Offices, Bhusawal Division
At P.O. Bhusawal.
3. Postmaster General
Aurangabad Region
At P.O. Aurangabad.
4. Shri S.B. Bhoi
At P.O. Melsangve, TQ :
Muktinagar (Edlabad)
Dist. Jalgaon.

... Respondents.

By Advocate Shri V.S. Masurkar.

OA 438/99

Anil Ramdas Patil
Residing at
P.O. Gate, Taluka -
Raver, Dist. Jalgaon.

... Applicant.

By Advocate Shri S.P. Kulkarni.

V/s.

1. Union of India through
Superintending of Post
Offices, Bhusawal Division
At P.O. Bhusawal.
2. Assistant Superintendent of
Post Offices, Bhusawal Sub-
Division, At P.O. Bhusawal.
3. The Director of Postal Services
Aurangabad Region, Office of the
Postmaster General, Aurangabad
Region, Aurangabad.
4. Shri S.T. Patil (Thakare)
At P.O. Gate (Thorgavan S.O.)
Bhusawal Division
Bhusawal.

... Respondents.

By Advocate Shri V.S. Masurkar.

ORDER ~~5222~~

¶ Per S.R. Adige, Vice Chairman

As these 3 OAs involve common questions of law and facts, they are being disposed of by this common order. For this purpose, with the agreement of both sides, the contents of OA 419/99 Shri R.P. Koli V/s Department of Post and others will be referred to:

2. Applicant R.P. Koli impugns respondent's order dated 1.4.1999 (Annexure A1(b)) rejecting his representation against his termination from service as EDBPM. He seeks reinstatement with back wages.

3. These three applicants had initially filed OA No. 867/98, 1006/98 and 1010/98 challenging different orders of termination issued by respondents. Those three OAs were disposed of by common order dated 14.12.1998 (Annexure A -5). In that order, after noting that applicant's services had been terminated without giving them any opportunity to represent against the proposed termination, the 3 OAs were allowed and the impugned termination orders were set aside; but without prejudice to the rights of the respondents to issue proper show cause to the applicants mentioning the grounds on which it was proposed to cancel the appointments, give an opportunity to applicants to give their representation to the same and thereupon after giving a personal hearing to the applicants to pass a speaking order thereon.

4. Pursuant to the above directions, respondents have terminated applicant's service by speaking orders (the order in OA No.419/99 is dated 1.4.1999 Annexure A-1(b)) which is now challenged in the present OAs.

5. The main arguments advanced on behalf of the applicants is that their initial appointments, the termination of which were challenged in OA No.867/98 1006/98 and 1010/98 was perfectly legal, fair and according to the recruitment rules, and there were no good reasons to warrant interference in the same.

It is contended that the criteria of income from landed property was fulfilled by applicant alone and the persons who was subsequently selected had not shown any details of income from property and therefore their claim had rightly been rejected initially. Inter alia it is also contended that these initial appointments which was in the nature of a contract were voidable only at the instance of an aggrieved party and could not be terminated merely because an authority superior to the appointing authority had held the initial appointments to be irregular in the absence of any one who was actually aggrieved.

6. We have considered these arguments carefully.

7. Placed in OA No 419/99 is a tabulation sheet (Exhibit R II) containing the details of candidates who were considered for appointment as ED&PM. Against applicants name at Serial No.4 in that sheet it is

stated that he secured 38.57% in SSC, and as regards immovable property it is stated that he has 89 R land (during hearing we were informed that this measures approx 2.5 acres) and a house in his own name. Against the name of Sri R.S. Patil Sl. No. 6 in that sheet who was subsequently selected and who is Respondent No.4 in OS No. 419/99, it is stated that he had secured 49.42% in SSC and although there was no land in his own name, a house was purchased in his own name on 27.1.1997 that is before the initial appointments were made.

8. It is not denied that the prescribed recruitment rules requires that the candidate selected for appointment must have adequate means of livelihood. The Punjab and Haryana High Court in their Judgement of 20.3.1996 in (W.P. No. 15356/97) - Union of India Vs Premchand (Annexure A -3) has held that the provision regarding "adequate means of livelihood" is an essential prerequisite for appointment and is not only a preferential qualification. Respondents circular dated 6.12.1993 (Exhibit R - II) states that it is not necessary to quantify "adequate means of livelihood" but preference may be given to those whose "adequate means of livelihood" is derived from landed property or immovable assets, if they are otherwise eligible for appointments.

9. Comparing applicant with Respondent No.4 in OA No. 419/99 we find that each of them possesses immovable assets viz: a house, and in addition applicant possesses some land, while Respondent No 4 does not. However, merely from that it cannot be conclusively established that applicant derives his adequate means of livelihood from that land, while Respondent No.4, does not have an adequate means of livelihood from his house. The main objective of this provision is to ensure that the person selected for appointment as EDBPM is someone with landed property / immovable assets stand in his name, so that public / depositors funds entrusted to his care and safekeeping are secure, and can be attached / forfeited in case of proved default.

10. Viewed in this light, applicant, as well as Respondent No.4 in OA No. 419/99 must be deemed to stand on equal footing as far as property qualification are concerned, and under the circumstance, as Respondent No.4 secured more marks in SSC than applicant, official respondents cannot be faulted in holding that in terms of the Recruitment Rules (Exhibit R -I), Respondent No.4 deserved to be preferred in comparison to applicant for appointment as EDBPM and applicant's initial appointment itself was irregular. Further more, no Court ruling or instruction has been shown to us during hearing to establish conclusively that such an irregularity cannot be corrected at the instance of an authority superior to the appointing authority despite the same coming to his notice, and the irregularity can be corrected only at the

instance of a person who is actually aggrieved.

11. In the result, these OAs warrant no interference. Interim orders, if any are vacated. The most that can be done for applicants in the three OAs is that if and when vacancies of EEBPM or other suitable vacancies arise, and applicants apply for the same, respondents while considering their claims in accordance with relevant rules and instructions should not lose sight of the experience already gained by them while working as EDBPM.

12. These 3 OAs are disposed of in terms of para 11 above. No costs.

13. Let a copy of this order be placed in all three OA case records.

(S.L. Jain)
Member (J)

(S.R. Adige)
Vice Chairman (A)

NS

DL 3112(0)

Order to be served
to App. No. 2511 of
on 25/11/99
C.C. on 02/12/99
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