

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A.No.793/2001

Dated this Thursday the 28th Day of February, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman  
Hon'ble Shri Gopal Singh, Member (A).

Smt.Nivedita Shrinivas Pathak,  
wife of Shrinivas Krishnaji Pathak,  
then working as E.D.B.P.M.,  
Bada Pokharan B.O. (Dahanu S.O.),  
District Thane.

Residing at:

P.O. Bada Pokharan, Tal. Dahanu,  
District Thane - 401 601.

.. Applicant.

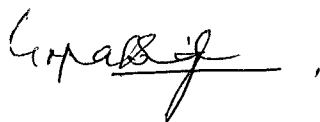
(By Advocate Shri S.P. Kulkarni)

Versus

1. Union of India, through  
Superintendent of Post Offices,  
Thane West Division, P.O.  
Mira Road, Dist. Thane-401107.
  2. Director of Postal Services (City),  
Office of the Chief Postmaster General,  
Maharashtra Circle, Old G.P.O. Bldg.,  
Near C.S.T. Mumbai (Central Railway),  
Fort, Mumbai-400001.
  3. Postmaster General,  
Mumbai Region,  
Office of the C.P.M.G.,  
Maharashtra Circle,  
Old G.P.O. Bldg.,  
Near CST Mumbai (Central Railway),  
Fort, Mumbai - 400 001.
  4. Smt.Rupali D. Kothari,  
C/o.E.D.B.P.M. Bada Pokharan B.O.,  
P.O. Bada Pokharan Via. Dahanu S.O.,  
Sub. Post Office Dahanu,  
District Thane - 401 601.
- .. Respondents.

(By Advocate Ms.H.P. Shah)

ORDER (Oral)  
{ Per : Shri Gopal Singh, Member (A) }



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In this application under Section 19 of the AT Act, 1985, the applicant Smt.Nivedita Shrinivas Pathak has prayed for setting aside the appointment and continuation of Respondent No.4 as E.D.B.P.M. and also quashing the termination order of the applicant. The applicant has also prayed that Respondents be directed to reinstate the applicant on the post of E.D.B.P.M. The applicant's case is that she was regularly appointed on 2.12.1998 as E.D.B.P.M., Bada Pokharan after due selection and she was discharging her responsibility on that post till her services were terminated on 16.9.1999. Contention of the applicant is that she has been carrying her duties and responsibilities satisfactorily and there was no reason to terminate her services, hence this application.

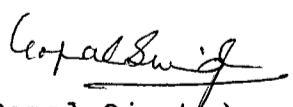
2. In the counter, respondents have contested the application on the ground that though she was appointed on the post of E.D.B.P.M. at Bada Pokharan, but it is seen from record that she was not eligible to the appointment. It is pointed out by the respondents that on a complaint, the record of selection were scrutinised and it was found that Respondent No.4 was the person having highest marks in the Matriculation Examination and therefore she was entitled to be appointed on the said post. Accordingly, the appointment of the applicant which was a mistake was corrected by removing her

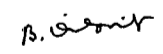
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services. It <sup>has</sup> therefore, been submitted by the respondents that the application is devoid of any merit and liable to be dismissed.

3. Learned counsel for the respondents has produced before us the departmental records in regard to the selection and we have seen that private Respondent No.4 has the highest marks (63.71%) amongst the candidates who had applied for the said post and Respondent No.4 rightly deserves to be appointed for the said post. Now the official respondents have appointed private Respondent No.4 on the said post by relieving the applicant. We do not find any infirmity in the action of the respondents in relieving the applicant as she was not eligible or entitled for the said post as per the marks in the <sup>matriculation</sup> ~~matriculation~~ examination. We are therefore of the view that this application deserves to be dismissed. The O.A. is accordingly dismissed, with no order as to costs. Before the final order the learned counsel for the applicant has argued that the applicant is entitled for the reliefs as claimed <sup>but</sup> ~~and~~ this can be looked into by civil Court only in case the law permits.

  
( Gopal Singh )  
Member (A).

  
( Birendra Dikshit )  
Vice Chairman.

H.