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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 495/91

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION 30.3.1994

Shri R.D.Patil Petitioner

Shri B.Dattamurthy Advocate for the Petitioners

Versus

Supdt.of Post Offices, Jalgaon & Anr. Respondent

Sh. S.S.Karkera for Sh.P.M.Pradhan Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri M.R.Kolhatkar, Member (A)

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? *no.*
3. ~~Whether their Lordships wish to see the fair copy of the Judgement ?~~
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

M.R. Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

M.S. Deshpande
(M.S.DESHPANDE)
VICE CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA.NO. 495/91

Shri Rajendra Dharma Patil

... Applicant

V/S.

The Superintendent of Post Offices,
Jalgaon Divn., Jalgaon & Anr.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.R.Kolhatkar

Appearance

Shri B.Dattamurthy
Advocate
for the Applicant

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 30.3.1994

(PER: M.S.Deshpande, Vice Chairman)

Only a few facts need ~~be~~^{be} noted for the purpose of deciding this application. The applicant came to be appointed as Extra-Departmental Branch Postmaster at Kavpimpri Branch Post office on 28.6.1989 provisionally in place of Prabhakar Latkan Patil who ~~was~~^{is} alleged to have committed a fraud while on duty. On 30.11.1990 the Respondent No. 2 asked the applicant to hand over charge without any notice or any order. ~~As~~^{After} the applicant was apprehensive that the attempt to replace him illegally would be repeated, he filed a suit on 6.12.1990 in the court of Civil Judge, Senior Division, Amalner. ~~After~~^{has} realising that the Civil Court had no jurisdiction, the applicant filed the present application on 26.8.1991 and ~~withdrawn~~^{has} the suit.

[Handwritten signature]

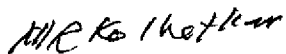
On 14.8.1991 the Sub-Divisional Inspector brought Respondent No. 3 and by written order directing^{ed} him to hand over charge the charge which was taken by the applicant and Respondent No. 3 was appointed to the post.

2. The only challenge which is being raised ^{about} is the process by which Respondent No. 3 came to be appointed. The procedure regarding the appointments is laid down in the D.G., P&T Letter No. 45-22/71-SPB.I/Pen., dated 4.9.1982 and the D.G., P. & T. Letter No. 43-233/84-Pen., dated 1.5.1986. The procedure requires that in order that there should be competitive selection, atleast three persons should be sponsored by the Employment Exchange. In the present case, only two persons were sponsored ^{one} against whom the allegation of fraud and the second was Respondent No. 3. The second letter to which we have referred requires that in the event of the employment exchange failing to sponsor the minimum number of candidates, the vacancy should be notified through public advertisements and while making the final selection, the comparative merit of all the candidates, i.e. those who respond to the notification as also those sponsored by the employment exchange should be taken into consideration. It is obvious that in the present case this procedure was not followed and Respondent No. 3 came to be appointed. The process by which Respondent No. 3 came to be appointed cannot be supported.

3. We, therefore, direct Respondents No. 1 & 2 to follow the directions contained in the two letters and issue a public notice inviting applications. The Respondents No. 1 & 2 ~~be~~ shall ^{be} considered the names of the candidates who were sponsored by the Employment Exchange as well as those who apply in response to the public notification calling applications. If the applicant ^{applies} ~~replies~~ in response to the public notification,

he also shall be considered. The entire process be completed within four months from the date of receipt of a copy of this order ^{and} as directed in G.S.Parvathy vs. Sub-Divisional Inspector (Postal), Guruvayoor & Ors. (1992) 21 ATC (FB) 13 that weightage should be given to a provisional E.D.Agent for his experience at the time of regular selection but such experience is not the only decisive factor for selection and it is to be taken into account along with the other relevant factors. A person having gained experience as a provisional ED Agent is not entitled to the preference under Section 25-H of the Industrial Dispute Act for appointment as a regular incumbent. The authority who make the selection shall keep this in mind while making ^{the} a selection. We would not disturb the appointment of Respondent No. 3 until a regular appointment is made in accordance with the directions given above, but the Respondent No. 3 shall vacate office if he is not selected, if any other candidate is selected.

4. The application is disposed of with these directions.


(M.R.KOLHATKAR)
MEMBER (A)


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.