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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 19 OF 1995.

Dated this Wednesday, the 2nd day of June, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,  
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Prabhakar Narayan Mahadik,  
Ex. E.D.B.P.M., Matvan,  
Tal. Dapoli, At. P.O. Matvan,  
Branch Office (Dapoli),  
District - Ratnagiri - 415 712.

(By Advocate Shri S. P. Kulkarni)

... Applicant

VERSUS

Union Of India through

1. Superintendent of Post Offices,  
Ratnagiri Division,  
At P.O. Ratnagiri - 415 612.
2. Sub-Divnl. Inspector (Postal),  
Dapoli Sub-Division,  
Dapoli - 415 712,  
(Dist. Ratnagiri).
3. Kum. Pallavi Pandurang Mahadik,  
Present EDBPM, Matvan Branch,  
Off : Tal. - Dapoli,  
District Ratnagiri - 415 712.
4. V. G. Mohire,  
(Retired) Superintendent  
of Post Offices, Ratnagiri,  
At. P.O. Phaltan,  
Dist. Satara - 415 523.
5. Post Master General,  
Goa Region,  
At P.O. Panaji (Goa)-403 001.

(By Advocate Shri S. S. Karkera for  
Shri P. M. Pradhan)

... Respondents.

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OPEN COURT ORDER

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

This is an application challenging the appointment of Respondent No. 3 as E.D.B.P.M. of Matvan Branch Office in Dapoli. The respondents have filed reply opposing the application. We have heard the Learned Counsels appearing on both sides. In view of points raised at the time of argument, it is not necessary to refer to the pleadings in detail. The applicant was appointed and engaged as a E.D.B.P.M. as a substitute against the vacancy caused by the superannuation of the previous incumbent. He worked for about three months as a substitute. In the meanwhile, the department took steps to fill up the post by selection. Applications were called for. Requisition was also sent to the Employment Exchange for sponsoring the names. After the selection process, Respondent No. 3 came to be appointed. The applicant's grievance is, that he was fully qualified and he has not been appointed. His further allegation is, that Respondent No. 3 had never applied for the post at all and only three candidates had applied, including the applicant but somehow the department has manipulated in taking application the/of Respondent No. 3 subsequently and then appointed her.

2. The respondents in their reply have denied this allegation. They have asserted that the applicant does not possess the required qualification of matriculation and hence could not be selected. It is further stated that four applications have been received in response to the public notification, including the applications of the applicant and Respondent No. 3. That the respondent No. 3 has been selected purely on merits on the basis of the per-centage

UPPER COURT ORDER

I HEREBY: SHALL H. C. WADSWORTH, VICE-CHANCELLOR

This is an application challenging the appointment of respondent No. 3 as a D.D. at Station Branch Office in Dapoli. The respondents have filed reply opposing the application. We have heard the learned Counsel appearing on both sides. In view of points raised at the time of argument, it is not necessary to refer to the pleadings in detail. The applicant was appointed and engaged as a D.D. as a substitute against the vacancy caused by the superannuation of the previous incumbent. He worked for about three months as a substitute. In the meanwhile, the department took steps to fill up the post by selection. Applications were called for. Advertisement was also sent to the Employer's Exchange for ascertaining the names. After the selection process, Respondent No. 3 came to be appointed. The applicant's grievance is that he was fully qualified and he has not been appointed. His further allegation is that Respondent No. 3 had never applied for the post at all and only three candidates had applied, including the applicant but somehow the department has manipulated in taking Respondent No. 3 subsequently and then appointed her.

2. The respondents in their reply have denied this allegation. They have asserted that the applicant does not possess the required qualification of matriculation and hence could not be selected. It is further stated that four applications have been received in response to the public notification including the applications of the applicant and Respondent No. 3. That the respondent No. 3 has been selected purely on merits on the basis of the percentage

of marks obtained in the matriculate examination.

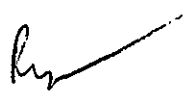
It is therefore stated that appointment of Respondent No. 3 is as per rules and does not call for interference.

3. The Tribunal has issued notice to Respondent No. 3 but she has not appeared before this Tribunal to contest the application. After hearing both the counsels on merit, we find that no case is made out for interfering with the appointment of Respondent No. 3. As far as the claim of the applicant for the post in question is concerned, his claim has been rejected only on the ground that he does not possess the minimum educational qualification as prescribed for the post, namely - matriculation. According to the applicant, he has passed the 10th Std. examination which is equivalent to matriculation. But it is now admitted before us that the applicant passed 10th Std. in 1972-73 when 11th standard was equivalent to matriculation. Therefore, applicant's passing 10th Std. examination in 1972-73 cannot be equivalent to matriculation. The reason is this. Matriculate examination is a Board Examination and a public examination. Admittedly, 10th Std. examination in 1972 was a class or internal examination and it was not a board examination. Therefore, the 10th Std. of 1972-73 cannot be equated to the matriculate examination as per the new rules. In these circumstances, we do not find any illegality in the stand of the department that the applicant did not have the minimum required educational qualification, namely - passing matriculate examination. The applicant himself produced the school certificate which shows that the applicant had failed in matriculate examination, namely - Xlth standard during 1973-74. He did not even produce the mark <sup>card</sup> list of 10th std., therefore, he cannot now complain that his marks of 10th std. of 1972-73

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should have been compared with the matriculation marks of other candidates who passed subsequently and who had applied for the post in question.


4. The only other grievance of the applicant is that respondent no. 3 had never applied for the post but her application has been taken subsequently. It is also stated that the applicant sent number of representations to the concerned authorities. This is only an allegation made by the applicant in the O.A. and may be repeated in some of the representations. The respondents have denied this allegation and they have clearly stated that four applications have been received, including that of applicant and Respondent No. 3. Mere allegation or repetition of allegation is no evidence. The applicant should have produced some evidence to support his allegation. The Learned Counsel for the respondents produced before us the selection papers which shows that respondent no. 3 had submitted her application dated 17.09.1993 and it has been received in the concerned office on 20.09.1993, which bears the office stamp with that particular date. Hence, on the available materials on record, it is not possible to accept the allegation that respondent no. 3 had not applied for the post and her application has been subsequently interpolated. In our view, the two contentions urged before us on behalf of the applicant do not merit acceptance. Hence, no case is made out for interfering with the appointment of Respondent No. 3.



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5. The Learned Counsel for the applicant submitted that the applicant <sup>was</sup> is wrongly <sup>deprived</sup> disposed of the post and his articles were taken by force, etc. and the applicant wants to take action against the concerned authorities. We do not want to express any opinion on this submission and it is open to the applicant to take whatever action <sup>that</sup> is permissible according to law.

6. In the result, the application fails and is dismissed. No order as to costs.

  
(D. S. BAWEJA)  
MEMBER (A)

  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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