

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 936/98

Date of Decision: 26/7/99

**Shri Umesh Yashwant Shirke**

Applicant.

**Shri S.P. Inamdar**

Advocate for  
Applicant.

Versus

**Union of India & 4 Ors.**

Respondent(s)

**Shri V.S. Masurkar &**



**Shri S.P. Rukkarni**

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. **Justice R.G. Vaidyanatha**, Vice Chairman.

Hon'ble Shri. **B.N. Bahadur**, Member(A).

- (1) To be referred to the Reporter or not? 
- (2) Whether it needs to be circulated to other Benches of the Tribunal? 

abp.

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO;936/98  
DATED THE 26th DAY OF JULY,1999.

CORAM:HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN.  
HON'BLE SHRI B.N.BAHADUR, MEMBER(A).

Shri Umesh Yashwant Shirke,  
Working as E.D.D.A, Kamrale E.D.B.O.,  
At & Post Kamrale, Tal.Alibag,  
District Raigad, Alibag.

... Applicant

By Advocate Shri S.P.Inamdar

v/s.

1. Union of India, through  
the Director Postal Services  
Mumbai Region, Mumbai,  
O/O.The Chief Post Master,  
General Maharashtra Circle,  
Mumbai - 400 001.

2. Superintendent of Post Offices,  
Raigad Division,  
Alibag-402201.

3. Shri Shangai,  
Asstt.Suodt. of Post Offices,  
Alibag Sub Division,  
Alibag-402 201.

4. Shri Anil Harishchandra Nagavkar,  
at Post Kamrale, Via-Alibag-402 201.

... Respondents.

5. Shri Mangesh P Nagaorkar,  
E.D.D.A. Kamrale E.D.B.O.(Alibag)-402 201.

By Advocate Shri V.S.Masurkar-R-1 to 3  
and Shri S.P.Kulkarni - R-4.  
& Shri S.P.Kulkarni-R-4.

(ORDER) (ORAL)

(Per Shri R.G.Vaidyanatha, Vice Chairman )

This is an application challenging the selection of respondent-4 as  
E.D.D.A. Respondents have filed reply. We have heard both the counsels

...2/-

regarding admission.

2. The applicant was working as E.D.D.A at Kamrale E.D.D.O by way of stop gap arrangement since 16/3/98. Department called applications for selection. The applicant, respondent 4 and 5 and some others applied for selection. The applicant, respondent 4 and 5 and some other candidates were considered by department and respondent-4 Shri Anil Nagavkar came to be selected. Being aggrieved by this selection, the applicant has approached this Tribunal.

3. After perusal of record produced by respondents, we find that the department has prepared merit list of all the candidates which is at page-76 of paperbook. As per this list, Shirke the applicant has not been selected since he had failed in SSLC; though according to rule 8th standard is the minimum qualification, candidates with matriculate will have to be preferred to that of 8th standard candidates. Since there were many matriculate candidates including respondents 4 & 5, the applicant was not selected. Therefore, we find no malafides or arbitrariness in the appointment of respondent No.4.

4. The learned counsel for applicant contended that as per rules the applicant's experience from 16/3/98 should have been taken into consideration and he should have been preferred. This experience is by way of stopgap arrangement and not by way of provisional or regular appointment. On the face of it stopgap arrangement may also be considered. It may be that if all the candidates were equally qualified, the experience may be taken as additional ground in favour of the applicant. But since as per rules, the applicant had failed in SSLC and



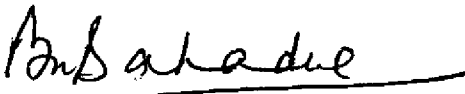
considered.

his name did not come in the merit list, admittedly, the applicant could not be considered.

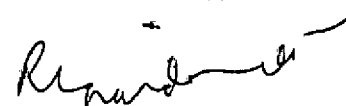
5. Therefore, in the facts and circumstances of the case, we do not find any illegality or irregularity in the appointment of respondent No.4. However, it is now brought to our notice that respondent No.4's appointment is cancelled and it is a dispute which will be decided in O.A.98/99 filed by another person.

6. As far as the applicant is concerned, it does not matter whether respondent No.4 or respondent No.5 is selected since both are matriculates but the applicant is not. Who is the regularly selected candidate will be decided in OA-98/99.

7. In the result, the OA is rejected at admission stage. There will be no orders as to costs. Needless to say the applicant's case can be considered by department for future vacancies as and when he applies subject to availability and suitability as per rules. No costs.

  
(B.N. BAHADUR)

MEMBER(A)

  
(R.G. VAIDYANATHA)

VICE CHAIRMAN

abp.