

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 470/1998

Date of Decision: JULY 17, 1998.

Shri Vijay Rajaram Dhamale, Petitioner/s

Shri S. P. Inamdar, Advocate for the Petitioner/s

v/s.

Union Of India & Others, Respondent/s

Shri P. M. Pradhan, Advocate for the Respondent/s

CORAM:

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

Hon'ble Shri D. S. Baweja, Member (A).

(1) To be referred to the Reporter or not ? *W*

(2) Whether it needs to be circulated to other Benches of the Tribunal ? *W*

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 470/98.

Dated this Friday, the 17th day of July, 1998.

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

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

Shri Vijay Rajaram Dhamale,
E.D.B.P.M. Khudli, E.D.,
At & Post Kudli,
Via-Bhira - 402308,
Tal. Roha,
Dist. Raigad.

... Applicant

(By Advocate Shri S.P. Inamdar)

VERSUS

1. Union Of India through
The Director Postal Services,
Mumbai Region,
O/o. Chief P.M.G.,
Maharashtra Circie,
Mumbai - 400 001.
2. Superintendent of Post
Offices,
Raigad Division,
Alibag - 402 201.
3. Mrs. Vidya Vasant Padval,
At & Post : Kudli,
Via Bhira (Roha)-402 308,
Dist. Raigad.

... Respondents.

(By Advocate Shri P. M. Pradhan)

: OPEN COURT ORDER :

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

This is an application filed by the applicant
challenging the appointment of Respondent No. 3 as
E.D.B.P.M., Khudli. The applicant also wants a direction
to the Respondent Nos. 1 and 2 to pass an order that the

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applicant has been appointed as Branch Post Master at Kudli, on regular basis w.e.f. 05.06.1997. The respondents have filed a short reply opposing admission and interim relief. We have heard the Learned Counsels appearing on both sides regarding admission and interim relief.

2. The applicant is working as a E.D.B.P.M. at Kudli since 05.06.1997. The applicant's case is, since he is already working as an E.D.B.P.M. sine 05.06.1997, he should be given preference in selection of his case. His further case is that, he owns immovable property but Respondent No. 3 does not hold any immovable property and therefore, selection of Respondent No. 3 ignoring the claim of the applicant is illegal and contrary to the rules. That is why, he has approached this Tribunal for the reliefs already mentioned.

The respondents' reply is that, the applicant has been working as E.D.B.P.M. as a stop-gap arrangement and, therefore, he does not get any right in that post or any preference for regular selection on that basis. As far as the immovable property is concerned, it is stated that none of candidates had any landed property and Respondent No. 3 was selected on the basis of merit.

3. After hearing both the sides, we find that the applicant's case cannot be considered. The

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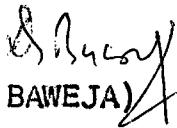
applicant's contention that he is entitled to preference on the basis of his working as E.D.B.P.M. cannot be accepted since he is appointed after his father attained superannuation on 05.06.1997. It was only a stop-gap arrangement and not a provisional appointment as per rules. Even according to the applicant's O.A. itself, the Mail Overseer called him and told him to work from 05.06.1997. If the applicant enters the post on the request of the Mail Overseer, he cannot claim any legal right to that post or any preference ~~when~~ being selected during the regular selection. The Learned Counsel for the applicant relies on the decision of the Full Bench in 1994-96 AT Full Bench Judgements 161 & S. Ranganayakulu V/s. The Sub-Divisional Inspector (Postal) West Sub-Division, Anantapur & Others & where the Full Bench has observed that a provisional candidate must be given preference. Since the applicant is not selected as a provisional candidate but he was selected as a stop-gap arrangement after his father's superannuation, the applicant cannot claim any preference for selection to the post in question.

4. As far as the criterion of owning immovable property is concerned, the respondents have clearly stated that none of the candidates own immovable property. The applicant has now produced a house-tax receipt to show that a property stands in his name. It is nowhere alleged that the applicant is getting any income from this house or from this house ~~site~~ ^{site}. The

Circular dated 06.12.1993 on which the applicant's counsel places reliance, mentions that persons having adequate means of livelihood from the landed property, should be given preference. The applicant has nowhere stated that he has produced any material to show that from the house site or from the house property he is getting any income as a source of livelihood.

Respondents have pointed out that on the basis of minimum qualification, namely - the S.S.C. marks, respondent no. 3 was found to be more meritorious. In our view, the selection appears to be as per rules and no case is made out for interfering with the selection of Respondent No. 3. Hence, it is not a fit case for admission.

5. In the result, the O.A. is rejected at the admission stage. The earlier ex-parte ad-interim order dated 15.06.1998 is hereby vacated. In the circumstances of the case, there will be no order as to costs.


(D. S. BAWEJA)

MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.