

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

CP 10/2004
(OA 243/2003)

DATE OF ORDER : 06.04.2004

Bhanwar Singh Gurjar son of Shri Pokhar Mal Gurjar, aged about 28 years, resident of Village Soti, Post Budana, District Jhunjhunu (Rajasthan).

..... Applicant

VERSUS

1. Shri Vijay Bhushan, Secretary to the Government of India, Department of Posts, Ministry of Communication, New Delhi.
2. Shri Faiz-Ur-Rahman, Post Master General, Rajasthan Western Region, Jodhpur.
3. Shri Mohan Lal, Superintendent of Post Offices, Postal Division, Jhunjhunu (Rajasthan).

..... Respondents

Mr. M.S. Gurjar, Counsel for the applicant.

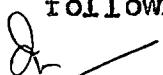
CORAM

Hon'ble Mr. J.K. Kaushik, Member (Judicial)
Hon'ble Mr. M.K. Mishra, Member (Administrative)

ORDER

PER HON'BLE MR. J.K. KAUSHIK

This Contempt Petition has been filed complaining non-compliance of the order dated 29.1.2004 passed in OA No. 243/2003 wherein this Bench of the Tribunal was pleased to pass the following order :-



" In view of decision rendered by the Full Bench in the case of H. Lakshamana as well as in the case of Rana Ram (Supra), the present OA is allowed. The impugned letter dated 22.6.2002 (Ann. A2) whereby respondent No. 4 was appointed as EDBPM in preference to the applicant and also letter dated 7.11.2002 (Ann. A6) whereby representation of the applicant was rejected, are hereby quashed and set aside. The respondents are directed to consider the case of the applicant on the basis of marks obtained in matriculation examination and in case the applicant is selected to the post of EDBPM, he be given opportunity to submit proof of property within a reasonable time in terms of decision rendered by the Full Bench as quoted above. Such an exercise shall be undertaken within two months."

2. The Contempt Petition was listed for admission today. We have heard the learned counsel for the petitioner on admission and have earnestly considered the pleadings and records of this case. The brief facts of the case are that the applicant filed the OA before this Bench of the Tribunal challenging the appointment of one Shri Pankaj Kumar as Extra Departmental Branch Post Master (EDBPM) at Desoosar. The OA came to be allowed in the above terms. Shri Pankaj Kumar, respondent No. 4 in that OA, challenged the same before the Hon'ble High Court of Rajasthan at Jaipur Bench, Jaipur wherein the order of this Bench of the Tribunal came to be affirmed.

3. Thereafter an order dated 9.3.2004 has been passed by the respondents wherein one Shri Subhash Chandra Saini who secured 60.5% of marks, has been selected for the post in question and the appointment of Shri Pankaj Kumar has been cancelled.

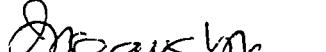
4. The learned counsel for the applicant has submitted that the order of this Tribunal has not been complied with. It is the applicant who has approached this Tribunal but one Shri Subhash Chandra Saini has been given appointment, even his candidature was rejected and he was not selected in the year 2002 when originally the selection was held. A specific query was made to the learned counsel for the applicant as regards the factual matrix of the matter regarding the merit position, which is drawn on the position of marks obtained in the matriculation examination. It is an admitted

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position that the applicant has secured only 52% marks. The learned counsel for the applicant has submitted that earlier applicant's candidature has been rejected on the ground that he did not submit the proof of property and income and that portion came to be a condition subsequent as per the Full Bench Judgement.

5. We are quite conscious of the situation but it is an unfortunate situation that the applicant has filed the case and successfully challenged the appointment of Shri Pankaj Kumar but the benefit has been given to someone-else and the applicant has only sacrificed but as far as the law is concerned, it has its own course. Since the other person, Shri Subhash Chandra Saini, has secured the highest marks and had to be placed at sl. No. 1 of the Merit as per the Full Bench Judgement wherein it has been provided that selection is a condition precedent and selection has to be based on marks obtained in the matriculation examination. We do not find that the order of the Tribunal has at all been flouted; rather, we are fully satisfied that the same has been complied with in toto. In the premises, the Contempt Petition is dismissed in liminie at admission stage.


(M.K. MISHRA)
MEMBER (A)


(J.K. KAUSHIK)
MEMBER (J)

AHQ