

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.159/96

Date of order: 12.9.2001

Govindram Sharma, S/o Sh.Ghasi Ram, V & Post Khohra,
Distt.Dholpur, Ex.EDBPM, Khohra.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Mini.of Communication, Deptt. of Posts, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Mokham Singh, Supdt.of Post Offices, Dholpur Divn, Dholpur.
4. Supdt.of Post Offices, Dholpur Division, Dholpur.
5. Munim Ram, EDBPM, Khohra, Distt.Bharatpur.
6. Ramjilal, Asstt.Supdt of Post Offices, Bayana, Distt.Bharatpur.

...Respondents.

Mr.K.L.Thawani : Counsel for applicant

Mr.Bhanwar Bagri : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.S.A.T.Rizvi, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash the oral order of termination of the applicant and direct the respondents to make fresh selection and consider the candidature of the applicant for appointment on the post of EDBPM at Khohra on regular basis by giving due weightage of his provisional appointment as EDBPM, Khohra.

2. In nutshell the case of the applicant is that he was

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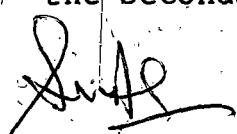
provisionally appointed as EDBPM, Khohra on 26.4.95 and worked honestly and sincerely. It is stated that Supdt.of Post Offices, Dholpur, invited applications for regular appointment as EDBPM Khohra and applicant submitted his application alongwith all documents. The Sudt.of Post Offices again issued public notice dated 19.6.95 and applicant again submitted his application in pursuance of the public notice with all requisite documents. It is also stated that respondent No.3 demanded Rs.10000/- from the applicant in lieu of his selection which the applicant paid to him but still the applicant was not selected. The contention of the applicant that respondent No.3 accepted Rs.20000/- from respondent No.5, Shri Munim Ram and selected and appointed him. Therefore, the applicant filed this O.A for the relief as above.

2. Reply was filed. In the reply, the contentions of the applicant for offering Rs.10000/- to respondent No.3 was denied. It is also denied that respondent No.5 was selected after he was paid Rs.20000/- to respondent No.3. It is also stated that the case of the applicant was also considered on merit and he was not found meritorious, hence he was not selected.

4. Rejoinder and reply to rejoinder has also filed which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. We have also perused the record produced by the respondents. After perusal of the record, it appears that the applicant secured only 46% marks in Secondary School Examination whereas respondent No.5 secured 50.13% marks in the Secondary School Examination. Therefore, on the basis of



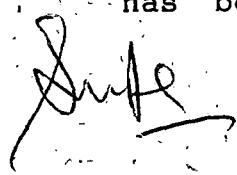
merit, the applicant has no case and we do not find any illegality/irregularity in the order selecting respondent No.5.

7. The learned counsel for the applicant vehemently urged that the applicant should have been given weightage of his experience while making selection on the post of EDBPM, Khohra on regular basis to which the learned counsel for the respondents has objected.

8. In D.M.Nagesh Vs. UOI & Ors, 2000(2) ATJ 269, it was held by Full Bench CAT, Bangalore, that no weightage can be given to the applicant for his experience on the post of ED Agent on provisional/temporary/substitute basis.

9. In Supdt.of Post Offices & Ors Vs. E.Kunhiraman Nair Muliya, (1998) 9 SCC 255, it was held by Hon'ble Supreme Court that temporary and provisional appointment of EDBPM with stipulation that the same would be terminable at any time without assigning any reason and that his services would be governed by P&T EDA(S&S) Rules. Termination of such appointment on administrative grounds whether the time limit as contained in Rule 6 of the said rules held the termination simpliciter and not stigmatic, hence did not attract Art.311 of the Constitution of India.

10. The learned counsel for the applicant during the course of arguments filed an affidavit sworn by Sh.Ram Swaroop mentioning that the applicant paid Rs.10000/- to respondent No.3. If it was so, the applicant should have made a complaint to the competent authority at the appropriate time so that enquiry in the matter could have been conducted. This Tribunal is not supposed to make roving enquiries on such state of affairs but on a perusal of record which has been produced before us, we are of the considered



opinion that the respondent department has selected respondent No.5 on merit, i.e. on the basis of marks obtained by him in the Secondary School Examination and we do not find any infirmity or illegality in the said selection.

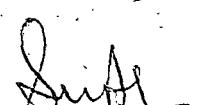
11. In view of the settled legal position and facts and circumstances of this case, we do not find any merits in this O.A and the same is liable to be dismissed. However, the applicant is at liberty to make a complaint against the concerned officer, before the competent authority regarding the alleged demand/acceptance of bribe from the applicant and the competent authority is expected to enquire the matter in a proper prospective and take appropriate decision in this matter.

12. We, therefore, dismiss this O.A having no merits with no order as to costs.



(S.A.T.Rizvi)

Member (A).



(S.K. Agarwal)

Member (J).