

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 10.4.02

OA No.195/1997

Nand Singh s/o Shri Bal Singh r/o Ward No.15, Chatrapura, Bundi lastly employed as E.D.B.P.M., Chatrapura. Distt. Bundi.

..Applicant

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Communication, Department of Posts, Sanchar Bhawan, Delhi.
2. Chief Postmaster General, Jaipur Region, Jaipur (Rajasthan)
3. Superintendent of Posts, Tonk Division, Tonk.
4. Inspector of Post Offices, Bundi Sub Division, Bundi.
5. Radhey Shyam s/o Bholu Ram c/o Nandan Lal Khatik, Gram Devpura, Distt. Bundi.

.. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. Bhanwar Bagri, counsel for the respondents

CORAM:

Hon'ble Mr. H.O.Gupta, Member (Administrative)

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

ORDER

Per Hon'ble Mr. H.O.Gupta, Member (Administrative)

The applicant is aggrieved of the order dated 17.3.1997 by which it is ordered to take charge from him, which he handed over on 29.3.1997. In relief, he has prayed for quashing the said order and for appropriate directions to the respondents to hand over the charge to



him and to regularise his services with all consequential benefits. It is further prayed to quash selection of the respondent No.5 - Shri Radhey Shyam - who is not fulfilling the required condition of the post of Extra Departmental Branch Post Master (EDBPM).

2. The case of the applicant as made out, in brief, is that:-

2.1 He was given the charge of EDBPM on 30.6.95 on his selection as he was fulfilling all the requisite qualifications like Secondary school pass and to be local resident as also to have property in his name.

2.2 The respondents treated the post as vacant; so the post was advertised on 19.5.95, 20.10.95 and thereafter on 30.5.96. He applied for the said post. He was sent a call letter on 17.8.95 (Ann.A3). He appeared in interview alongwith original documents on 21.8.95 but no result was declared till this date. Thereafter the post was advertised two times and he applied for the post, but even interview was not given. Copy of one of the said advertisements is marked as Ann.A4. He was ^{discharging} discharging the duties to the full satisfaction of the superiors since 30.6.95 till 29.3.97. He was not having a single complaint about his work. His work was found satisfactory during ^{inspection} inspection. In the circumstances, the order dated 17.3.97 is arbitrary and unjustified.

2.3 The respondent No.5 has been selected without facing any selection. The respondent No.5 - Shri Radhey Shyam - is also not qualified but given the charge of the post of EDBPM. He is not resident of this area, since he is resident of village Devpura. He is also not having any



property in the concerned village. Some persons who were working in village Mani and Gauali have been regularised but the applicant has not been regularised.

3. The respondents have contested this application and have submitted that:-

3.1 Due to retirement of one Shri Moti Singh on attaining the age of superannuation on 30.6.95, as a temporary arrangement, the applicant was engaged as Branch Postmaster, Chhatrapura purely on temporary basis. Simultaneously, names were called from the Employment Exchange, but since no names were received, applications were invited through local advertisement, but only application of the applicant was received till the closing date. Since only one application was received, Inspector Post Offices, Bundi vide letter dated 21.6.95 was asked to send two more applications. He sent three more applications. However, none was found eligible. Therefore, no selection was made out of these applications.

3.2 Again vide letter dated 8.9.95 a panel from Employment Exchange, Bundi was called for, which was not received within the prescribed time. Therefore, on 18/20.10.95 applications were invited by issuing a general notification. Pursuant to this notification, three applications were received including that of the applicant. Applications so received were verified from the Inspector of Post Offices, but none were found suitable for the said post. Again on 25.3.96, a panel was called from the Employment Exchange. However, no panel was received within 30 days, therefore, local advertisement was issued. In response to this local advertisement only

one application of the applicant was received. Since only one application was received, vide letter dated 8.7.96 Inspector Post Offices was asked to send some more applications. In the meantime, a panel was received from the Employment Exchange Bundi. Application forms were received from the candidates whose names find place in the panel. These applications were verified on 31.10.96. After considering the candidature of all the applicants, one Shri Radhey Shyam Kumhar, who fulfilled all the requisite eligibilities criterion for the post was selected on 5.3.97 and accordingly on 29.3.97, the charge of the post of Branch Postmaster, Chhatrapura was taken from the applicant and was handed over to the duly selected candidate, Shri Radhey Shyam.

3.3 The applicant was given charge purely on temporary basis without examining his eligibility of the said post, whereas Shri Radhey Shyam (respondent No.5) was selected on regular basis. It is denied that he was selected for the post of Branch Postmaster, Chhatrapura on 30.6.95 as he was fulfilling all the requisite eligibility criterion. It is also denied that while filling up the post, procedure of interview was followed. On 17.8.95, the applicant was called to appear before respondent No.4 for verification of his documents and not for interview as alleged. The applicant was not found suitable for regular selection for the said post as he was not fulfilling the requisite eligibilities and, therefore, the charge of the said post was rightly taken from him.

3.4 It is denied that the respondent No.5 was not having any property in his own name. As per certificate issued by the Tehsildar, Bundi the respondent No.5 is



having a plot of land measuring 3000 Sq.Ft. in his own name situated at Devpura. A copy of the property in respect of respondent No.5 is enclosed as Ann.R1. It is not necessary that the candidates who were selected for the post of Branch Postmaster must be resident of same village. It is, therefore, denied that the respondent No.5 is not entitled to hold the post in place of the applicant. Since the applicant was not selected for the post on regular basis, he cannot claim this post as of right. Since the applicant was given the charge of the post of Branch Postmaster, Chhatrapura purely on temporary basis till a regularly selected candidate is made available, there was no necessity to give any notice to him before taking over charge. There was no violation of the principles of natural justice.

4. In rejoinder, the applicant has submitted that temporary arrangement can be made for a short period of six months. The applicant was possessing requisite qualification and also applied for regular selection. His selection was deferred for about two years to harm the applicant. A candidate is called for interview and not for filing documents alone, personally. The respondents have not stated as to which qualification the applicant was not fulfilling. Shri Radhey Shyam - respondent No.5 - is not entitled candidate than the applicant. Record of the case will reveal the actual position. The respondent No.5 has not produced any registered document of his property and a certificate of property cannot be taken as ownership of property. He worked for about two years and such an arrangement cannot be counted as a temporary arrangement.

The application for regular appointment of the applicant was rejected twice and efforts were made to select some one of their choice.

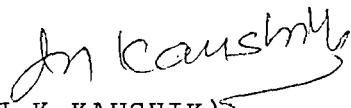
5. Heard the learned counsel for the parties and perused the record.

5.1 During the course of argument, the respondents also produced record with regard to selection of the candidates.

5.2 It is a fact that the applicant was appointed on purely temporary basis till a regularly selected candidate is appointed. It is also a fact that the applicant worked for about 21 months on the said post and respondents have not denied about the contention of the applicant that his performance was satisfactory without any complaint. On perusal of the record produced by the respondents, it is seen that the applicant was not selected for the reason that he did not have any other source of income as also since his application was not sponsored through the Employment Exchange. The contention of the applicant that respondent No.5 - Shri Radhey Shyam - does not fulfil the requisite eligibility criteria does not appear to be correct in view of the certificate issued by the Tehsildar, Bundi with regard to the property. It is also a fact that in the list sent by the Employment Exchange based on which the selection was made, the applicant's name did not appear. Since the applicant was working satisfactorily for about 21 months, the respondents ought to have considered his case alongwith others. Be that it may, the fact remains that Shri Radhey Shyam has obtained 41.6% marks in High School as against

40.54 % obtained by the applicant. As per rules of the Postal Department, the merit is prepared based on the marks obtained in the High School examination. The respondent No.5 has admittedly higher marks in the High School examination as seen from records. Non-consideration of the applicant on the ground of non-sponsorship by the Employment Exchange or not having any other source of income cannot be said to have prejudiced the applicant since the candidate selected was having higher marks than the applicant. The earlier selection processes were cancelled by the respondents for the reasons that either only one application was available or the applications were incomplete/the applicants therein were not eligible. Such action of the respondents cannot be said to be malafide or to favour someone as contended by the applicant.

6.0 Based on above discussion, this OA is devoid of merit and is, therefore, dismissed without any order as to costs.


(J.K. KAUSHIK)

Member (Judicial)


(H.O. GUPTA)

Member (Administrative)