

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

DATE OF ORDER : 26.5.2000

OA 503/97

Roopchand Gochar s/o Shri Badri Lal Gochar, resident of Village Balkosha (Keohav Rai Patan), Distt. Bundi-323301.

....Applicant

Versus

1. Union of India through the Secretary, Deptt. of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. The Post Master General Rajasthan, South Region, Ajmer - 305001.
3. The Asstt. Director, o/o the PMG, Rajasthan South Region, Ajmer - 305001.
4. The Superintendent Post Offices, Tonk Division, Tonk (Raj.)
5. Shri Shyam Behari Shrengi, Branch Post Master Balkosha, S/o Shri Mangilal Sharma, Village Balkosha (Keshav Rai Patan) Distt.: Bundi.

....Respondents

Mr. R.P. Pareek, Counsel for the applicant.

Mr. Hemant Gupta, Proxy counsel for

Mr. M. Rafiq, Counsel for the respondents no. 1 to 4. None for respondent no. 5.

CORAM

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

Hon'ble Mr. V. Srikantan, Member (Administrative)

ORDER

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

In this OA applicant makes a prayer to direct the respondents to quash the selection of respondent no. 5 alongwith order dated 21.8.97, issued by the Assistant Director (Postal) (Annexure A-1), rejecting the representation of the applicant and to direct the respondents to consider the applicant for appointment to the post of

*[Signature]*

Branch Post Master in the light of merit position and working experience.

2. The facts of the case, as stated by the applicant, are that applicant has been working as Branch Postmaster Balkosha since 12.1.97. It is stated that respondent no. 4 invited applications for appointment on the post of EDBPM, Balkosha on regular basis. The applicant also applied to respondent no. 4 but inspite of the fact that applicant was meritorious in comparision to respondent no. 5, selected respondent no. 5 on the post of EDBPM Balkosha. The applicant filed a representation but the same was also rejected. Therefore, applicant filed this Original Application for the relief, as mentioned above.

3. Reply was filed. In the reply it is stated that on superannuation of Shri Durga Shankar Sharma on 12.1.97, a post of EDBPM Balkosha fallen vacant. Therefore, to fill up that post, a requisition was sent to Employment Exchange Bundi for sponsoring the names of eligible candidates and Employment Exchange Bundi sent a list of 20 candidates. Thereafter candidates mentioned in the list were asked to submit applications but only five applications were received. It is stated that none of the applicants submitted the necessary documents. Therefore, the list was discarded. It is, therefore, stated that on 17.3.97, a general advertisement was issued for notifying applications for the selection on the post of EDBPM Balkosha and last date of application was fixed as 31.3.97. It is stated that only three applications were received in response to this advertisement. (1) Shri Deen Dayal Sharma (2) Shyam Behari Shrengi (3) Shri Roop Chand Gochar. It is stated that Shri Deen Dayal Sharma, who was having highest marks had not enclosed any certificate of his Income, which was necessary requirement in accordance with Clause (5) of the advertisement. Similarly, the applicant was having 42% marks also did not submit any proof with regard to his Income. Therefore, Shri Shyam Behari Shrengi, who was having 41.8% marks but had submitted certificate duly verified by Tehsildar, declaring his yearly Income as Rs. 12,000/- and also submitted proof of agriculture land, was selected and orders for regular appointment of respondent no. 5 were issued on 28.8.97. It is also stated that applicant was working as EDBPM Balkosha since 12.1.97 but his work and performance was found unsatisfactory in that period. In the repl



it has been stated categorically that mere submission of proof regarding ownership of land is not sufficient to proof that the applicant has any source of income. Clause (5) of advertisement dated 17.3.97 categorically require the candidate to submit his certificate of income issued by the Tehsildar concerned which the applicant failed to furnish and, therefore, he could not be selected. Therefore, in view of the averments made in the reply, respondents have requested to dismiss this OA with costs.

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

5. It is pertinent to mention here that respondent no. 5 did not like to file reply inspite of the fact that Shri Manoj Sharma, Advocate, appeared for respondent no. 5 but no reply was filed inspite of the opportunity.

6. The method of recruitment of Extra Departmental Branch Post Master is prescribed in Section III, "Method of Recruitment." Under the heading '3' Income and Ownership of Property, which is reproduced as below:-

"The person who takes over the agency (ED SPM/ED BPM) must be one who has an adequate means of livelihood. The person selected for the post of ED SPM/ED BPM must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with provision for installation of even a POO (Business premises, such as shops etc. may be preferred)."

According to this rule, what is required is that person concerned should have adequate means of livelihood and he should be able to offer space for the postal operations. There is further requirement that premises should be such as will serve a small postal office with a provision to install even a POO. Why Department attached importance to this provision 'possession of immoveable property and independent means of livelihood by ED BPM', the logic & rational behind the same is that the post of a Branch Post Master is a responsible appointment which requires the appointee to handle public monies as a routine duty in course of his day to day functioning. Further more he is also the custodian of Govt. property, like stamps, and seals, documents, postage stamps and stationery besides certificates and other public assets of intrinsic



monetary values. It follows, therefore, that anyone charged with the responsibility of safeguarding and transacting public business in relation to such assets, has to be of necessity of man of substance, stability and accountability. He has to have a reliable means of independent livelihood, and cannot be solely dependent on the allowance which he might derive from the post. This is essential in terms both of security of departmental and public interest as well as the responsibility of the appointment itself.

7. In the instant case, admittedly, the applicant submitted the application for recruitment on the post of ED BPM Balkosha mentioning that he is in possession of 10 Bighas of agricultural land which is his main source of income. It is also not disputed that <sup>applicant</sup> secure more marks in High School/Secondary School in comparision to respondent no. 5, who is selected but the applicant was not selected because he did not file the certificate of income. No rule/executive instructions were produced by the respondents and no rule/executive instructions were shown to us at the time of hearing by the learned counsel for the respondents so as to establish the fact that the certificate duly verified by the Tehsildar concerned declaring the annual income of the applicant was must. Merely that production of the certificate has been mentioned in the advertisement does not support the contention of the respondents in the absence of any rule/executive instructions for this purpose. Therefore, selecting a candidate having lesser marks in High School/Secondary School Examination only on the ground that a person having high merit did not produced a certificate verified by Tehsildar was not at all justified in the fact and circumstances of this case. Respondents must have taken into consideration this fact that applicant is having 10 Bighas irrigated land and he is having his own house at the place of post office which was a sufficient compliance of the provision given in Section III of Method of recruitment of EDBPM.

8. In the same way it is pertinent to mention here that another person Shri Deen Dayal Sharma who is having 17 Bighas of land and he is having his own independent source of income, he did not produced the documents pertaining to the land. On this ground alone his candidature was rejected under the rules. What is required is that a person is required to file a list of property and if the Department on verification found that the statement of the applicant is false, his candidature may be rejected on this ground. But only on account of the fact

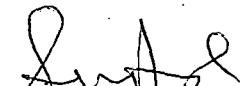


that a person concerned has not produced the documents in support of his income is no ground to reject his candidature. It was the duty of the Department, if necessary, for verification to call for the documents and then only the same conclusion should have been drawn. As respondent no. 5 did not like to file any reply in this case and no one was present at the time of hearing also, therefore, on the basis of record, we reach the conclusion that selection of respondent no. 5 by the respondents is irregular.

9. We, therefore, allow this OA and quash the selection of Shri Shyam Behari Sharma, respondent no. 5, on the post of EDBPM, Balkosha and direct the respondents to reconsider the candidature of all the three candidates again in view of the recruitment rules/executive instructions, issued for this purpose from time to time, and give appointment to the most suitable candidate within three months from the date of receipt of a copy of this order. No order as to costs.

  
(V. SRIKANTAN)

MEMBER (A)

  
(S.K. AGARWAL)  
MEMBER (J)