

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 10.07.2000

O.A. No. 79/1998

Kushla Ram Jat son of Shri Gopi Ram Jat, by caste Jat, aged about 38 years, resident of Bhopatpura, Village & Tehsil Srimadhapur, Panchayat Samiti Malakali, P.O. Bhopatpura, District Sikarm Rajasthan.

... Applicant.

v e r s u s

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. The Post Master General, Western Region, Jodhpur.
4. The Superintendent of Post Offices, Sikar Dn., Sikar.
5. Shri Sagarmal Balai, E.D.B.P.M., Post Office Bhopatpura, District Sikar.

... Respondents.

Mr. P.N. Jati, Counsel for the applicant.

Mr. M. Rafiq)
Mr. Hemant Gupta) Counsel for the respondents.

CORAM:

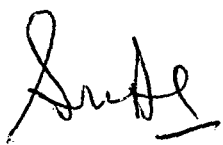
Hon'ble Mr. S.K. Agarwal, Judicial Member.

Hon'ble Mr. S. Bapu, Administrative Member.

: O R D E R

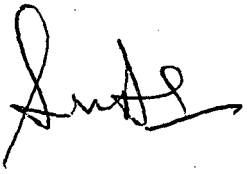
(per Hon'ble Mr. S.K. Agarwal)

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to select the applicant on the post of E.D.B.P.M., Bhopatpura Post Office with effect from 10.10.1997 and to cancel the selection of Shri Sagar Mal Balai (respondent No.5) on the post of EDBFM, Bhopatpura, vide order of SPOs, Sikar, at Annexure A/3 dated 10.10.97.



2. The facts of the case, as stated by the applicant, are that the applicant is a resident of Bhopatpura and has his own house in the village Bhopatpura. It is stated that to fill up the post of E.D.B.P.M., The Superintendent of Post Offices, Sikar, issued a notification dated 7.8.97, inviting applications from the eligible candidates and applicant also submitted his application for the same. It is stated that the applicant fulfils all the eligibility conditions for the post of EDBPM, Bhopatpura and he is the better candidate in comparison to Shri Sagar Mal Balai, who has been selected for the post of EDBPM, Bhopatpura. It is further stated that the selection of Shri Sagar Mal Balai for the post of EDBPM is totally wrong, arbitrary, unfair and against the the rules of the department. Therefore, the applicant has filed this OA praying for the reliefs, as mentioned above.

3. Reply was filed. In the reply, it was admitted that the post of EDBPM, Bhopatpura, fell vacant on account of selection of Shri Bholu Ram Kumawat as Postman and to fill this post on regular basis, Employment Exchange, Sikar, was asked to send the names of eligible candidates for the said post. Accordingly, Employment Exchange, Sikar, provided a list of eligible candidates and who were asked to send their applications. However, only one application was received within the time specified. Therefore, an open advertisement was made for this purpose and in pursuance of that advertisement, four applications were received. It is stated that according to the advertisement, preference was given to the candidates belonging to Scheduled Castes / Scheduled Tribes, if they are otherwise eligible for the post and the respondent No. 5, Shri Sagar Mal Balai, an SC candidate was selected. It is denied that the respondent No. 5, Sagar Mal Balai, was not fit for selection under the rules. It was also denied that the selection of Shri Sagar Mal Balai on the post of EDBPM, Bhopatpura, is in any manner unfair and wrong. It is also stated in the reply that there was a backlog of SC quota in the Division and, therefore, in view of the instructions contained in D.G.P&T, New Delhi, letter dated 8.3.1978, respondent No. 5, Sagar Mal Balai, who was a S.C. candidate and possesses all other eligibility criteria for the post of EDBPM, Bhopatpura, was selected. Therefore, in view of the reply filed by the respondents, they have requested to dismiss this O.A. as having no merits.

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

5. The respondents have referred a circular issued by D.G.P&T, New Delhi, No. 43/246/77-Pen dated 8th March, 1978, which provides that candidates belonging to the Scheduled Castes/Scheduled Tribes with the minimum educational qualification prescribed in the office letter No. 5-9/72-ED Cell, dated the 18th August, 1973, viz. VIII standard for EDEPMs, VI standard for EDDAs and EDSVs and working knowledge of the regional language and simple arithmetic for other EDAs (and working knowledge of English for ED Messengers) should be given preference over the candidates belonging to other communities, even if the later are educationally better qualified provided that the candidates belonging to Scheduled Castes/Scheduled Tribes are otherwise eligible for the post. A ~~relevant~~ letter dated 13.3.84 issued by the DGP&T, New Delhi, also makes it clear that while making selection of EDEPM/EDSPM, the representation of SC/ST IN ED appointment may be given preference.

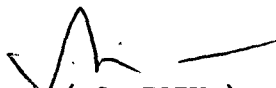
6. We have given anxious consideration to the rival contentions of both the parties and also perused the whole records.

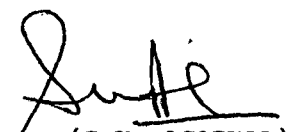
7. CAT Full Bench, Hyderabad, in OA No. 1551/97, decided on 12.11.98, a reference was made, answer to the question was given as follows:-

"The condition that preference will be given to ST/SC/OBC would mean that the candidates belonging to ST/SC/OBC even if placed below the names of OCs (i.e. other candidates, or candidates belonging to general category) in the merit list, would be entitled to appointment in preference to OCs, though all the candidates belonging to general category or ST/SC/OBC categories would be entitled to equal consideration for the purpose of selection. If the name of no candidate belonging to ST/SC/OBC finds place in the merit list, or no eligible ST/SC/OBC candidate is available for the post, then only OC candidate may be selected for appointment according to rules."

8. In the instant case, selection of the respondent No.5, Shri Sagar Mal Balai, in view of the instructions issued by the DG P&T, New Delhi, is not in any way in contravention to any recruitment rule and we do not find any infirmity in the order issued by the respondents in favour of respondent No.5.

9. We do not find any merit in the OA and the same is dismissed with no order as to costs.


(S. BAPU)
Adm. Member


(S.K. AGARWAL)
Judl. Member