

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 10.12.2001

OA 200/99

Miss Shakuntala Sharma d/o Shri Gajanand Sharma r/o
Village & Post Gudha Dev ji (Dai), Distt. Bundi.

... Applicant

v/s

1. Union of India through Secretary, Ministry of Communication, Deptt. of Posts, New Delhi.
2. Supdt. of Post Offices, Tonk Division, Tonk.
3. Sh. Satyanarayan Sharma, Village and Post Karvar, via Indergarh, Distt. Bundi.

... Respondents

CORAM:

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

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr. Shiv Kumar

For the Respondents ... Mr. Hemant Gupta, proxy
counsel for Mr. M. Rafiq

O R D E R

PER HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, applicant Miss Shakuntala Sharma has prayed for quashing the impugned order dated 5.4.99 (Annexure A/1) and for a direction to the respondents to issue appointment order in favour of the applicant.

2. Applicant's case is that in response to a notification dated 10.9.98, issued by the respondents for filling up the post of Extra Departmental Branch Post Master (EDBPM, for short) at Gudha Dev ji (Dai), the applicant had applied for this post and her name was

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sponsored through the Employment Exchange. It is the contention of the applicant that she fulfills all the eligibility conditions for appointment to the post of EDBPM and she had also secured highest marks in the qualifying examination. However, the respondents have appointed respondent No.3 on the said post ignoring claim of the applicant, hence this application.

3. In the counter, it has been pointed out by the respondents that the applicant was having highest percentage of marks in her Secondary School Examination i.e. 56% but she was not having any immoveable property in her name and also she failed to produce any income certificate and, therefore, she could not be selected and the next candidate, Shri Satyanarayan Sharma, Respondent No.3, securing 55.63% marks in the qualifying examination and fulfilling all other eligibility conditions, was selected and appointed as such. It has, therefore, been contended by the respondents that the application is devoid of any merit and deserves dismissal.

4. The contention of the applicant is that the selection for the post of EDBPM, Gudha Dev Ji (Dai), has to be based on the marks secured by a candidate in the a qualifying examination and it is not necessary that the selected candidate should have fulfilled all the eligibility criteria before applying for the post. We are inclined to agree with this argument of the learned counsel for the applicant. In this regard we also get support from the OA order dated 22.6.2000, in OA 708/98, passed by Madras Bench of the Central Administrative

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Tribunal, reported at 3000 (3) ATJ 639, P.Josephine Amudha v. Union of India. We consider it appropriate to extract below the relevant portion of the order :-

"6. It is the contention of the respondents that since the applicant produced the income certificate in her father's name her candidature was kept in abeyance was appointed as a stop gap measure as EDBPM, Ammapatti BPO. This argument of the respondents in our opinion is against the view held by this Tribunal in a catena of decisions relating to selection and appointment of personnel for the post of EDBPM. In fact in similar cases we have held that the respondents should not ~~mix~~ confuse with the pre-selection condition and post selection conditions. In so far as pre-selection condition is concerned, it is the maximum marks obtained by the individual which will be the deciding factor for selection.

In so far as pre-appointment or post-selection conditions are concerned as per the regulations of the department the selected incumbent has to produce an income certificate in his/her name. Therefore under such circumstances, if the individual was not able to produce the income certificate immediately on selection, the individual should be given sufficient time to produce the income certificate as expected by the department. This in no way should interfere with the process of selection. The equality of opportunity in the matter of public employment as envisaged under Art.14 of the Constitution would mean that the element of monetary consideration of financial status of an individual should not mix up with the process of selection and merit alone should be the deciding factor in the matter of selection. Therefore the position relating to financial soundness of a candidate is something which can wait and for which the individual can be given some time to fulfil the said requirement. Therefore the action of the respondent in not appointing the applicant on a regular basis because she had not produced the income certificate in her name is arbitrary and we hold that the applicant should be given adequate time for production of the income certificate in her name."

In the light of above discussion, we find that there is sufficient merit in this application and the same deserves to be allowed. The OA is accordingly allowed with the following directions :-

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- i) The respondents shall afford an opportunity to the applicant for producing of documents pertaining to her eligibility on the post for which one month's time ~~such~~ shall be given to the applicant.
- ii) If the applicant is found eligible to the post, the appointment of respondent No.3 shall be cancelled and the applicant shall be appointed on the post of EDBPM at Guda Deo Ji (Dai), thereafter.
- iii) Parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)
MEMBER (A)

S.K. Agarwal

(S.K. AGARWAL)
MEMBER (J)