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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 21.12.2000

OA No.317/99

Pokhar Mal Balai s/c Shri Delu ram, aged about 50 years, r/o Dhani Mangal Das, P.O.Garoda, Distt. Sikar.

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. The Director Postal Services Rajasthan, Western Region, Jodhpur.
3. Superintendent of Post Offices, Sikar Division, Sikar.
4. Madan Lal Khariya, Village and Post Patoda, District Sikar.

.. Respondents

None present for the applicant

Mr.Hemant Gupta, Proxy counsel to Mr. M.Refiq, counsel for the respondents

CORAM:

Hon'ble Mr.A.K.Mishra, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

Order

Per Hon'ble Mr. A.K.Mishra, Judicial Member

The applicant has moved this OA with the prayer that the selection and appointment of respondent No.4 as Extra Departmental Branch Post Master (for short EDBPM) Garoda be declared as illegal and further prayed that the candidature of the applicant for such appointment be considered.

2. Notices to the respondents were issued.
 3. The official respondents have stated in their reply that the applicant was considered alongwith 9 candidates for appointment as EDBPM but respondent No.4, Madan Lal Khariya, was found to be more
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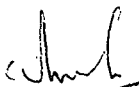
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meritorious in all respects amongst the participant candidates and was, therefore, appointed on the post of EDBPM.

4. In this case we observe that the learned counsel for the applicant is not coming to attend the case for almost one year i.e. since 21st December, 1999, therefore, we have considered the case on its own merits.

5. We have heard the learned counsel for the respondents and have gone through the OA. From the comparative chart of qualifications and other conditions etc. of participant candidates, as mentioned in Ann.R1, we find that as compared to the applicant, the respondent No.4 has much better percentage of marks in the educational qualifications required for the post in question. There is nothing on record to establish mala-fides of respondent No.3 in selecting and appointing respondent No.4. Allegations of mala-fides are easy to make but difficult to establish. Whenever allegations of mala-fides are made they have to be established beyond the questionable standard which in the instant case, the applicant has failed to bring on record. In the rules there is no provision for giving weightage to the existing or provisional working EDBPM. The appointment of the applicant was provisional and is now replaced by a regular appointment. Provisional appointee has no right to claim continuance on the post as compared to the regular appointee. In this case, the Department after due process has given appointment to respondent No.4. Consequently, respondent No.4 cannot be said to be replacing the applicant by such appointment which could be termed as de-hors the rules. The contention of the applicant is devoid of any merit.

6. The OA therefore, deserves to be dismissed and is hereby dismissed with no order as to costs.


(N.P. NAWANI)
Adm. Member


(A.K. MISHRA)
Judl. Member