

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 29-11-0

OA 116/2002

Abdul Samad Khan s/o Shri Abdul Aziz Khan r/o Village Pavta Gaddi, Tehsil Gangapur City, District Sawai Madhopur.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Supdt. of Post Offices, Sawai Madhpur Division, Sawai Madhopur.
4. Shri Atma Ram Tyagi s/o Shri Radhey Shyam Tyagi r/o Village Kishorepur, Post Pavta Gaddi (Vazirpur), Tehsil Gangapurcity, Distt. Sawai Madhopur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant ... Mr.Aslam Khan, Adv.brief holder for  
Mr.Asgar Khan

For Respondents No.1to3 ... Mr.N.C.Goyal

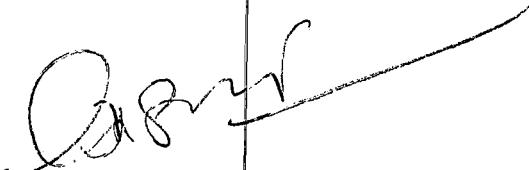
For Respondent No.4 ... Mr.Hemant Gupta

O R D E R

PER MR.JUSTICE G.L.GUPTA

The Superintendent of Post Offices issued a notification dated 22.8.2000 inviting applications for the post of Extra Departmental Branch Post Master (EDBPM), Pavta Gaddi, Vazirpur. The post was reserved for OBC category candidates. The applicant also applied for the post. The appointing authority after considering the applications of the candidates approved the name of respondent No.4 (Atma Ram Tyagi) for appointment, vide order dated 16.10.2001. The applicant has called in question this order. His case is that respondent No.4 did not belong to OBC category and he did not have accommodation in the village (Pavta Gaddi), whereas the applicant belongs to OBC category and he had the house for running the Branch Post Office in the village. It is prayed that the approval of respondent No.4 for appointment be quashed and the applicant be directed to be appointed on the post.

2. In the counter, filed by the official respondents, it is stated that respondent No.4 belongs to OBC category and he had secured 59.63 % marks as against the marks obtained by the applicant i.e. 48.83 %. It is



further stated that respondent No.4 has provided accommodation in the village (Pavta Gaddi) for the Branch Post Office.

3. In the separate reply filed by the private respondent, it is stated that that it is not the requirement of the Rules that a candidate should belong to the village where the appointment is to be given. The only requirement is that the candidate must have suitable accommodation to run the Branch Post Office and respondent No.4 has satisfied that condition.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

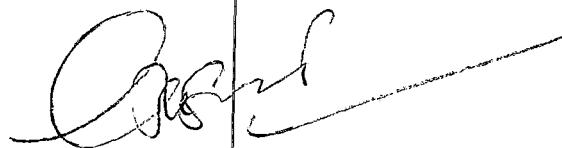
5. From the particulars mentioned at page-5 of the reply of the official respondents, it is evident that one Nirbhay Singh had obtained highest marks 61.82 %. However, he was not selected because he was not having independent source of livelihood/income and did not have the landed property in his name. The second best candidate was respondent No.4, who was fulfilling all the conditions including that of having independent source of livelihood/income. He has got agriculture land in his own name.

The applicant had got only 48.83 % marks and, therefore, he could not be considered for appointment in preference to respondent No.4.

6. This contention of the applicant cannot be accepted that the private respondent does not belong to the OBC category. A certificate issued in favour of the private respondent by the Tehsildar, Gangapurcity, has been placed on record, in which it is stated that Atma Ram s/o Shri Radhey Shyam is member of the OBC category. The correctness or otherwise of the certificate cannot be seen in these proceedings. When the competent authority has issued a certificate to the private respondent, it has to be accepted that he belongs to the OBC category.

7. The applicant has placed on record a copy of the Jamabandi of Samvat 2056 to 2059 (Ann.A/7), in which one Radhey Shyam s/o Shri Rudhiba was described as belonging to 'Brahmin' community. There is nothing on record to believe that this Radhey Shyam is the father of the applicant. We have already stated that the competent authority has issued a certificate of OBC to respondent No.4 and that could not be discarded by the respondents while considering him for appointment.

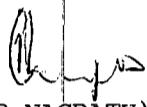
8. The property condition was satisfied by the private respondent when he made available the house for running the Branch Post Office. In this connection, it is significant to point out that earlier also a

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notification had been issued inviting applications for the post of EDBPM, Pavta Gaddi, and respondent No.4 had also applied for the post and he had been selected. However, he could not provide house accommodation in Pavta Gaddi and, therefore, his appointment was cancelled. Thereafter, fresh notification inviting applications was issued and this time the private respondent satisfied the property condition when he provided accommodation for the Branch Post Office.

9. In the aforesaid circumstances, it cannot be said that the official respondents have erred in approving the candidature of respondent No.4.

10. Having considered the entire material on record, we find no merit in this OA and dismiss it with no order as to costs.

  
(A.P. NAGRATH)

MEMBER (A)

  
(G.L. GUPTA)

VICE CHAIRMAN