

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May kindly
see
copy
6/6
Hon. VC
On
6/6

O.A. No. 441/2002.
T.A. No.

200

DATE OF DECISION _____

Narendra Kumar

Petitioner

K. L. Thawani

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

N. C. Goyal

Advocate for the Respondents(s)

CORAM:

The Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.

The Hon'ble Mr. G. C. Srivastava, Administrative Member.

(G. C. SRIVASTAVA)
MEMBER (A)

(G. L. GUPTA)
VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 6.6.03

O.A. No. 441/2002.

Narendra Kumar S/o Prabhu Dayal Jat aged about 20 years, resident of village and post office PEIPRAU via Akhaigarh Distt. Bharatpur and candidate for the post of Extra Departmental Branch Postmaster Piprau Distt. Bharatpur.

... APPLICANT.

v e r s u s

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communications, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur 302007.
3. Superintendent of Post Offices, Bharatpur Division, Bharatpur (Raj) 321001.
4. Suresh Kumar S/o Furan Singh Jat, Village Kuma, P.O. Sesar (Bharatpur).

... RESPONDENTS.

Mr. K. L. Thawani counsel for the applicant.
Mr. N. C. Goyal counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. G. C. Srivastava, Administrative Member.

: O R D E R :
(per Hon'ble Mr. G. C. Srivastava)

The applicant Mr. Narendra Kumar who is a candidate for the post of Extra Departmental Branch Post Master, Piprau, (EDBPM, for short) has filed this OA, praying for the following reliefs:-

"i) That the Annexure A-1 impugned order be quashed being illegal, unconstitutional and violative of article 14 and 16 of the Constitution of India.

ii) That the respondents be directed to make selection and

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appointment of the E.D.B.P.M. Piprau as per rules and not to reserve the post for any reserved category. It should be open to all.

iii) That the selection if any of Shri Suresh Kumar, R-4 be quashed and the respondents be directed to make fresh selection on the basis of merit of the applicant and other candidates.

iv) That the applicant be selected and appointed as E.D.B.F.M., Piprau, on the basis of having more percentage of marks than R-4.

v) Any other relief which this Hon'ble Tribunal thinks just and proper in favour of the applicant including costs".

2. The case of the applicant is that the Superintendent of Post Office, Bharatpur Division, Bharatpur (Raj) issued a public notice for recruitment to the post of EDBPM vide memo dated 4.2.2002 (Annexure A-1), inviting applications from candidates belonging to other castes (i.e. O.C.). He applied for the post along with necessary certificates. He has come to know that one Mr. Suresh Kumar Jat (OBC) has been selected as EDBPM and he is likely to be appointed. Aggrieved by this, he has approached this Tribunal.

3. Respondents have contested the OA and have filed a detailed reply.

4. We have heard Mr. K. L. Thawani and Mr. N. C. Goyal, learned counsel for the applicant and the respondents, respectively and with their consent we are disposing of the OA at the admission stage.

5. The main ground taken by Mr. Thawani for the applicant is that there is no provision for maintaining a roster for reservation for the post of EDAs and there cannot be any reservation for a single post in question. He has also contended that the selection of Mr. Suresh Kumar Jat (respondent No.4), if any, is totally wrong as he is a OBC candidate like the applicant and is having less percentage of marks than him. According to him, he possesses all the requisite qualifications for appointment as EDBPM and, therefore, instead of Mr. Suresh Kumar he should be appointed.

6. On the other hand, Shri N. C. Goyal has contended that the applications received in response to the advertisement dated

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4.2.2002 were verified and as per the comparative chart Mr. Suresh Kumar Jat S/o Shri Pura Singh (respondent no.4) is having the higher percentage of marks in SSC and landed property in his own name and Rs. 18,000/- per annum income from it. According to him, Mr. Suresh Kumar Jat has secured 81.45% of marks in the Secondary School Examination while the applicant has only got 76% of marks in the said examination. He has further contended that vacancy in the post of EDBPM has been declared for other castes candidates and is not reserved for any category and since Mr. Suresh Kumar has secured the higher percentage of marks he has been selected on the basis of merit and not on the basis of reservation. He has further contended that while applying for the post Mr. Suresh Kumar has given a certificate regarding providing accommodation in the village for the residence and Post Office at Piprauh village as per the requirement of service conditions. He also fulfils the condition of permanent residence of the post village/delivery jurisdiction. Accordingly he has submitted that since the selection of Mr. Suresh Kumar Jat is based on the percentage of marks and on merit and not on reservation, the applicant has no case and, therefore, the same should be dismissed.

7. We have considered the rival contentions. Admittedly the post of EDBPM in question was for other communities or General category. The applicant who is also a OBC candidate had admittedly applied for the said post and even respondent No.4 i.e. Mr. Suresh Kumar had also applied for the said post. Since the post was not for reserved category and was open for general category, candidates belonging to other reserved categories could also apply, just as the applicant had applied for the said post. The respondent No.4 who also belongs to the OBC category has applied for the said post. From the reply of the respondents, it is very clear that the respondent no.4 has secured 81.45% of marks in the SSC examination and fulfils other conditions for appointment, while the applicant has admittedly secured only 76% of marks in the SSC examination. In view of this, the contention of the applicant that the respondent no.4 has secured only 57% of marks is without any basis. From a perusal of the Comparative Chart at Annexure R-3 it is seen that applicant at Sl. No.2 has secured 76% of marks in the SSC Examination while respondent no.4 at Sl. No. 46 has secured 81.45% of marks. Learned counsel has produced a copy

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of the mark sheet of Mr. Suresh Kumar issued by the Secondary Education Board, Rajasthan which shows that he has secured 448/550. It is thus very clear that respondent no.4 has secured the higher percentage of marks and the applicant has no claim for appointment. As regards the ground regarding provisions for maintaining roster for reservation for EDAs post, since the selection of respondent no.4 has been made on the basis of merit and not on the basis of reservation and as the post is open for general category candidates for which even candidates from reserved category can also apply, the contention fails.

8. In the facts and circumstances, we do not find any merit in the OA and in our considered view the same deserves to be dismissed.

9. In the result, the OA is dismissed with no order as to costs.


(G. C. SRIVASTAVA)


(G. L. GUPTA)