

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 162 of 1998

DATE OF DECISION..... 31.8.99

Shri Babul Chandra Deka (PETITIONER(S))

Mr. G.K.Bhattacharyya, Mrs. B.Dutta Das. ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

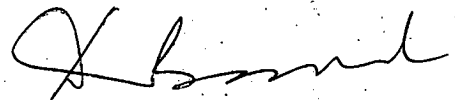
Union of India & Ors. RESPONDENT(S)

Mr. B.S. Basumatary, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.
THE HON'BLE MR. G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 162 of 1998

Date of decision : This the 31st day of August, 1999.

HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

HON'BLE MR. G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

Shri Babul Chandra Deka,
Son of Sri Hem Chandra Deka,
Villave : Potapukhuri,
P.O. Barampur,
District : Darrang (Assam).

...Applicant

By Advocate Ms. B. Dutta Das

-versus-

1. Union of India,
represented by the Chief Post Master General,
Meghdut Bhawan,
Guwahati-1.
2. Superintendent of Post Offices,
Darrang Division
Tezpur-781001
3. The Sub-Divisional Inspector of Post,
Mangaldoi Sub-Division,
Mangaldoi-754126.
4. Sri Arun Chandra Deka,
Son of Sri Jonaram Deka,
Vill. Sarabari,
Barampur.

.. Respondents

By Advocate Mr. B.S. Basumatary, Addl. C.G.S.C.

O R D E R

BARUAH J.(V.C.).

The applicant has challenged Annexure-4 order dated 29.5.98 and prayed that the said order be set aside and quashed.

Facts are :

The applicant is a resident of Potapukhuri, Barmapur in the district of Darrang. He passed H.S.L.C.



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Examination in the year 1988 and was placed in second Division. He secured 344 marks in total. His father Sri Hem Chandra Deka was also serving as Extra Departmental Branch Post Master (for short EDPBM). He retired from service on 21.2.1998. On his retirement his younger brother served as EDPBM as his nominee and the term of his younger brother Sri Lakshi Ram Deka expired on 31.7.98. The 2nd respondent by a letter dated 6.2.98 requested the Employment Exchange to sponsor candidates for appointment as EDPBM which had fallen vacant due to the retirement of the father of the applicant. In the said letter minimum educational qualification prescribed was matriculation or equivalent. The candidates must have adequate means of livelihood. Further, it was stipulated that the candidate must be a resident of the post village. Names of eight candidates were forwarded by the Employment Exchange including the applicant and his younger brother Lakshi Ram Deka and the 4th respondent - Sri Arun Chandra Deka. Out^{of} them none belongs to the post village. However, according to the applicant he resides adjacent to the post office and the 4th respondent resides about 4 kilometres away. The 4th respondent also passed H.S.L.C. examination and was placed in third Division. He secured only 337 marks in total. As the applicant was denied the post he has approached this Tribunal by filing this present application.

2. In due course the respondents have entered appearance and filed written statement controverting the claim of the applicant.

3. We have heard both sides. Ms. B. Dutta Das submits that the applicant was more meritorious than the 4th respondent. He secured 45.86% marks and secured second



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Division whereas the 4th respondent is less meritorious. He secured only 39.4% marks and was placed third Division. The authority ignoring all the facts appointed the 4th respondent. Mrs. Dutta Das further submits that a house was constructed by the father of the applicant on a Govt. land with the aids of local people. In making construction of the house, the 4th respondent had no contribution. On the other hand Mr. B.S.Basumatary, learned Addl. C.G.S.C. disputes the submission of Mrs. Dutta Das.

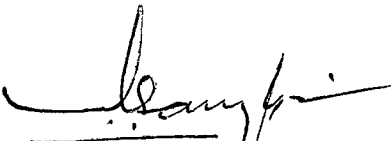
4. On hearing the counsel for the parties and on perusal of the records, we feel that the applicant ought to have filed a representation to the authority before approaching this Tribunal. However, he did not do so. We therefore feel it expedient to dispose of this matter with a direction to the respondents to consider the representation if filed within a period of fifteen days from the date of receipt of this order. If such representation is filed, the authority shall dispose of the same, as early as possible at any rate within a period of two months thereafter. While disposing of the same the authority should make an enquiry as to who constructed the house; whether there is any contribution of the 4th respondent. The respondents shall also find out the distance between office and residences of the applicant and respondent No.4 and also take into consideration of the marks secured by both of them because meritorious person should always be preferred to less meritorious person. The respondents shall also follow the decision of the Apex Court in the case of Baliram Prasad Vs. U.O.I. & Ors. reported in 1997 (2) SCC 292.




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5. With the observations made above, the application is disposed of.

6. Considering the facts and circumstances of the case, we however, make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

trd