

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH : JABALPUR

Date of Order:- 6.5.2005

Registration No. CA-1178 of 2004

Sheikh Ijaz Khan,
Son of Shri Sheikh Rafique Khan,
GDS Branch Postmaster,
Ghorawari Khurd, Post Ghorawari Khurd,
Tahsil & District Chhindwara (M.P.)

... Applicant

- By Shri V. Tripathi, Advocate

Versus

1. Union of India through its Secretary, Ministry of Communication, Department of Post, New Delhi.
2. The Chief Post Master General, Chhattisgarh Circle, Raipur (C.G.).
3. The Assistant Director (II), O/o Chief Post Master General, Chhattisgarh Circle, Raipur (CG).
4. Superintendent of Post Offices, Chhindwara Division, Chhindwara (M.P.)

.... Respondents

- By Shri Om Namdeo, Advocate

Coram:- Hon'ble Shri M.P.Singh, Vice-Chairman
Hon'ble Km Sadhna Srivastava, Member (J)

ORDER

Hon'ble Km Sadhna Srivastava, Member (J):-

The facts are that in pursuant to the advertisement for the post of Gramin Dak Sewak (GDS) Branch Postmaster, the applicant submitted an application within prescribed time. However, income/

property proof was submitted beyond the last date of receipt of the application, but before the issue of appointment. The proof of income/property was submitted on 23.1.2003. The last date for receipt of the application was 2.1.2003. The letter of appointment was issued on 30.1.2003. The applicant had been working since after his appointment. All of a sudden a show cause notice as contained in Annexure A/1 dated 26.5.2004 was received by the applicant for termination of his service. The only ground mentioned in this notice is that since the applicant submitted the proof of income/property after the last date of receipt of the application, the appointment order is bad in law. The applicant, therefore, filed this present application and secured interim order on the basis of which he continued to hold the office of the Branch Postmaster. The prayer is to quash the impugned notice dated 26.5.2004. The instruction on income and ownership of property reads as follows:-

"The person who takes over the agency (EDS PM/EDBPM must be one who has an adequate means of livelihood. The person selected for the post of EDS PM/EDBPM must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small Postal Office with provision for installation of ever a PCO (Business premises such as shops, etc., may be preferred)"

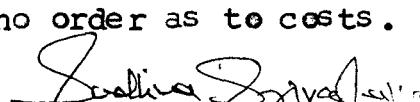


The Full Bench of Tribunal in Rana Ram vs. Union of India & Others reported in Administrative Tribunal Full Bench Judgments 2002-2003 page 1 has laid down

"The selections have to be made on basis of the other qualifications minus the qualifications pertaining to immovable property. Thereafter the person selected can be given reasonable time to submit proof of income/property as per rules/instructions on the subject and in case he fails to submit the same within a reasonable time the offer can be given to the next eligible/selected candidate."

2. In view of the above decision the impugned notice dated 26.5.2004, can at once be said to be bad in law. In the instant case the proof of income/property was submitted before the issue of the letter of appointment. According to the above judgment the said proof could be submitted later on. It is only when the proof is not provided, within a reasonable time fixed by the competent authority, then the offer of appointment can be given to the next candidate. Proof of income/property is not a condition precedent for selection. Therefore, we have no hesitation in allowing the O.A. The application succeeds. The impugned notice dated 26.5.2004 as contained in Annexure-A_1 is hereby quashed. The applicant shall not be denied any benefit otherwise due on the basis of the impugned notice. There shall be no order as to costs.

sks


(Sadhna Srivastava)
Member (J)


(M.P.Singh)
Vice-Chairman