

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/206/2001

Order Reserved on: 26.11.2018

DATE OF ORDER: 20.12.2018

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER

Bhanwar Lal Jajoria S/o late Shri Nathu Lal, aged about 27 years, R/o Village and Post Keshopura via Bhankrota, Jaipur. Last employed on the post of Extra Departmental Branch Post Master Keshopura Extra Departmental Branch Post Offices.

....Applicant

Mr. C.B. Sharma : counsel for applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communications, New Delhi – 110 001.
2. Chief Post Master General Rajasthan Circle, Jaipur-302007.
3. Senior Superintendent of Post Offices, Jaipur City Postal Division, Jaipur – 302006.
4. Shri Mohan Lal Balai S/o Shri Prabhati Lal Balai, E.D.B.P.M. Keshopura E.D.B.O. via Bhankrota, Jaipur and resident of village Chamand Ka Mad Post Sayapura Tehsil Jamwaramgarh District Jaipur.

....Respondents

Mr. N.C. Goyal : counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

On availability of a post of Extra Departmental Branch Post Master (EDBPM) Keshopura, the applicant herein was appointed on the said post on 27.02.1999 on provisional basis. Thereafter,

vide notification dated 23.04.1999, applications were invited by the official respondents to fill up the said post and pursuant thereto, the applicant also applied for the said post. However, vide Memo dated 26.11.1999, one Shri Ram Dhan Mourya was selected by the official respondents to hold the said post. Later on, his services came to be terminated on 17.08.2000 and, therefore, the applicant was again asked to work on the post of EDBPM Keshopura on 28.08.2000 on provisional basis. Again a fresh notification for making selection to said post was issued by the official respondents on 25.08.2000. The applicant again submitted his application pursuant to said notification. However, the official respondents selected respondent no. 4 (Shri Mohan Lal Balai) to hold the said post vide order dated 23.03.2001.

2. Aggrieved by the selection and appointment of respondent no. 4, the applicant preferred the instant Original Application with the assertions that he was more meritorious than respondent no. 4 and the official respondent no. 3 while ignoring his merit has illegally selected and appointed respondent no. 4. The Original Application was allowed by this Tribunal on 22.08.2003 and while setting aside the order Annexure A/1, the official respondents were directed to give appointment to the applicant on the post of EDBPM Keshopura within a period of one month from the date of receipt of a copy of the said order.

3. The aforesaid order dated 22.08.2003 passed by this Tribunal became the subject matter of challenge before the Hon'ble High Court of Rajasthan, Jaipur Bench, Jaipur at the instance of Union of India in D.B. Civil Writ No. 6520/2003. The matter was finally heard by the Hon'ble High Court of Rajasthan on 19.04.2018 and

after setting aside the order dated 22.08.2003 passed by this Tribunal, the matter was remitted back for decision afresh. It requires to be noticed here that while setting aside the order dated 22.08.2003 passed by this Tribunal, the Hon'ble High Court of Rajasthan observed that this Tribunal is bound by the decision of the Hon'ble High Court of Punjab and Haryana as to oppose the applicant's claim, the official respondents had relied upon a judgment rendered by the Hon'ble High Court of Punjab and Haryana in the case of **Union of India vs. Premchand** (Civil Writ Petition No. 15356 of 1997 decided on 23.03.1998) when the matter was heard and disposed of by this Tribunal on 22.08.2003.

4. While joining the defence, official respondents no. 1 to 3 had filed a joint reply to Original Application and opposed the claim of the applicant on the ground that the applicant was not earning his livelihood from landed or immovable property, which is a mandatory and essential condition for selection to the post of EDBPM. The official respondents further averred that the applicant did not show the source of income in his application form and the income certificate submitted by him with said application was also not certified by the competent authority. A further assertion was also made that as per the applicant's own disclosure in his application form, his income was from the work of electrical fittings. However, as per the verification report of ASPO (East), Sub Division, Jaipur, the applicant's income was from the vocation of driving a taxi, which is not the required source of income i.e. from landed / immovable property.

5. Heard learned counsels for the parties.

6. Learned counsel for the applicant argued that the applicant was more meritorious than respondent no. 4 (Shri Mohan Lal Balai) and he disclosed his source of income in the application form. He was having immovable property on *Patta* basis. Therefore, respondent no. 4 could not have been preferred for selection and appointment to the post of EDBPM, Keshopura and the applicant should have been appointed on the said post.

7. Per contra, learned counsel for the official respondents contended that the applicant was not having income from landed/immovable property, which was a condition precedent to make selection and appointment on the post of EDBPM, Keshopura. In support of his contention, he relied upon a judgment dated 23.03.1998 rendered by the Hon'ble High Court of Punjab and Haryana in the case of **Union of India & Anr. vs. Prem Chand & Ors.** (Civil Writ Petition No. 15356 of 1997).

8. Considered the rival contentions of learned counsels for the parties and perused the record.

9. As per the notification issued by the official respondents, to fill up the post of EDBPM, Keshopura, a candidate, apart from having the requisite academic qualification, is also required to have the income from a landed/immovable property owned by him. A candidate is also required to produce a certificate of income issued by a Revenue Officer while submitting his application form. Admittedly, as per the applicant's own disclosure in his application form, he was having the income from electrical fitting works and not from a landed/immovable property owned by him. Though learned counsel for the

applicant submitted that the applicant was having some land on *Patta* basis but a *Patta* cannot be construed to be a document of ownership of the applicant with regard to some land. Even otherwise, it has not been disclosed that how much income, the applicant was having from the land, which he was having on *Patta* basis with him. Thus, we hold that the applicant was not having any income from the landed/immovable property owned by him. The Hon'ble High Court of Punjab and Haryana in the case of **Union of India & Anr. vs. Prem Chand & Ors.** (supra) has categorically held that the property qualification prescribed for recruitment on the post of EDBPM is an essential and mandatory qualification. Though the applicant was having better academic qualification than respondent no. 4 but since he was not fulfilling the criteria of having the income from landed / immovable property owned by him, therefore, we do not find any fallacy in the action of the official respondents whereby they selected and appointed respondent no. 4 on the post of EDBPM, Keshopura.

10. It further requires to be noticed that while filing reply to M.A. No. 272/2001, the official respondents averred that the respondent no. 4 had tendered his resignation from the post of EDBPM, Keshopura on 26.04.2001. A further assertion was made that due to shortfall, the vacant post of EDBPM Keshopura was later on identified for OBC community. Whereas, the applicant belongs to SC community. In this view of the matter, we are also of the opinion that in the changed circumstances, no cause survives in favour of the applicant.

11. In the conspectus of discussions made hereinabove, we do not find any merit in the present Original Application and the same deserves to be dismissed.

12. Accordingly, the present Original Application is dismissed.
No order as to costs.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

Kumawat