

(2005) 03 PAT CK 0134
In the Patna High Court
Case No : CWJC No. 2910 of 2005

Ram Naresh Prasad @ Naresh Bhagat	APPELLANT
Vs	
Union of India and Others	RESPONDENT

Date of Decision : 11-03-2005

Acts Referred:

Citation : (2005) 2 PLJR 220

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Judgement

1. Heard Learned Counsel for the parties. This writ application is directed against the order dated 10th February, 2005 passed by the Central Administrative Tribunal, Patna Bench in O.A. No. 775 of 1998, whereby the claim of the private respondent No. 6 was allowed and the appointment of the petitioner on the post of Extra Departmental Branch Post Master of Sheo Ram EDBO has been cancelled on two grounds, firstly, that the petitioner has secured less marks than the respondent and secondly that the respondent has sufficient landed property.

2. Learned Counsel appearing for the petitioner made two submissions. Firstly, he submitted that the Tribunal without even mentioning or giving details of the documents with regard to the ownership has observed that the private respondent has produced the documents with regard to ownership including the mutation order. He submitted that the order of mutation is not a document of title and possession. This apart, copy of mutation order was filed after filing of the application. Secondly, he submitted that the respondent had failed and again appeared in the Matriculation Examination in breach of the regulation of the Bihar School Examination Board. This aspect was also not taken into account by the Tribunal while considering the claim of the parties.

3. Learned Counsel appearing for the private respondent, on the other hand, submitted that the Tribunal has considered the relevant facts. Several documents were filed to show the ownership of the lands and the fact that the respondent had failed in the examination earlier is not the relevant consideration for the

purpose of considering the case for appointment.

4. Having heard Learned Counsel for the parties and perusal of the records we find that the relevant conditions for appointment are that the candidate should be Matriculate and he should possess landed property. In a case when there are several candidates then naturally higher marks will be one of the considerations while considering the question of appointment. In this case, the private respondent has secured higher marks but with regard to other criteria i.e. possession of landed property, the finding of the Tribunal is not according to law. The Tribunal has observed that the order of mutation was filed after filing of the application. It has not given details of any of the documents filed by the respondent showing his ownership of the land. On this ground alone, we are of the view that the matter requires reconsideration by the Central Administrative Tribunal. Accordingly, the impugned order is set aside and the matter is remitted to the Central Administrative Tribunal for reconsideration. The matter should be disposed of by the Tribunal within two months from the date of receipt/production of a copy of this order.

5. Before parting with this order, we may mention that either the mutation order or the rent receipt is not a document of title and possession. Mutation orders are made only for the purpose of collecting revenue from one among the several claimants. The documents concerning title and possession are sale deed, gift deed, entry in the khatiyān and other documents. In the result, this application stands disposed of.