

(2008) 01 MAD CK 0199

In the Madras High Court

Case No : Writ Petition No. 21474 of 2001 and W.P.M.P. No. 31752 of 2001

The Chief Postmaster General, The Postmaster General,
Central Region and The Superintendent of Posts,
Nagapattinam Division

APPELLANT

Vs

The Registrar, Central Administrative Tribunal, Madras Bench,
K. Jothi and S. Radha

RESPONDENT

Date of Decision : 29-01-2008

Acts Referred:

Citation : (2008) 01 MAD CK 0199

Hon'ble Judges : P.K. Misra, J;K. Chandru, J

Bench : Division Bench

Advocate : S. Udhayakumar, SCGSC, for the Appellant;

Final Decision : Dismissed

Judgement

K. Chandru, J.—Heard the arguments of Mr. S. Udhayakumar, learned Senior Central Government Standing Counsel representing the petitioners and have perused the records.

2. The Chief Post Master General, Tamil Nadu Circle and two other officers of the same Department are the petitioners. Aggrieved by the order of the Central Administrative Tribunal [for short, "CAT"] dated 03.11.2000 allowing the original application in O.A. No. 501 of 1999 filed by the second respondent, the present writ petition has been filed.

3. The second respondent herein filed the Original Application seeking to set aside the order of termination dated 12.4.1999 and also for reinstating her as the Extra Departmental Branch Post Master [for short "EDBPM"] in Pudupathur Branch Office with all benefits. Before the Tribunal, the second respondent contended that she had secured higher marks among the candidates who had applied for the said post and she was provisionally selected and was also sent for training from 10.6.1998 to 13.6.1998 and she also assumed the charge as

EDBPM on 17.6.1998. The CAT found that the production of Income Certificate given by the second respondent, though belatedly, cannot be a grave irregularity and otherwise there was no infirmity in the selection made by the writ petitioners. In view of the said order, order impugned before the CAT was set aside.

4. However, on behalf of the petitioner, Mr. S. Udhayakumar, learned Additional Central Government Standing Counsel contended that the EDBPM post in Pudupathur Branch Office fell vacant in January 1998 and the post was earmarked for Scheduled Caste category and even though 22 candidates had applied among which 11 candidates were found belonging to Scheduled Caste Community, only 9 candidates had attended the interview and as nobody was found suitable, a further local notification was issued on 07.4.1998 fixing the last date for receipt of application as 22.4.1998. In the second notification, five applications were received and the interview was fixed on 20.5.1998. On that day, some of the candidates left the office before their appearance and, therefore, the interview fixed on 20.5.1998 was postponed to 29.5.1998. Though the second respondent had secured 343 out of 500 marks, she produced the Income Certificate dated 30.4.1998 only after the last date fixed for the date of receipt of application and hence, accepting her Income Certificate after the due date was illegal and show cause notice was given and after getting her explanation, the termination of the service of the second respondent took place. Subsequent to the termination order dated 12.4.1999, local Employment Exchange was addressed and in response to the same, seven applications were received and the Employment Exchange sponsored 21 candidates. While this process was going on, the second respondent approached the Tribunal and the process was stalled. The receipt of any certificates after due date cannot be permitted especially in the light of the instructions issued by the Director General of Posts dated 18.9.1995 and once such a concession is given in favour of any individual, then the entire selection process may get vitiated because it may bound to give chain reaction from the other candidates and the Tribunal had overlooked the fact.

5. The writ petition was admitted and an interim stay was granted on 09.11.2001 and it continues till date. In the result, the order of the Tribunal has not been given effect to. In fact, the third respondent S. Radha was posted as EDBPM as a stop gap arrangement.

6. We are of the opinion that the order passed by the Tribunal is not proper. Especially when complaints were received that the selecting authority had no jurisdiction to extend the time for receipt of necessary certificates, the Tribunal cannot merely overlook the fact and hold that it was not an essential document. Once the authorities who have called for candidates fixed a particular cut off date for receipt of applications in complete shape, it is no open to the very same selecting authority to give relaxation in favour of one candidate alone and select her. Therefore, when complaints were received, the petitioners have enquired

into the complaint and found that the allegation was true. Therefore, we have no hesitation in setting aside the order of the Tribunal impugned in this writ petition.

7. Accordingly, the writ petition will stand allowed. However, there will be no order as to costs. It is now open to the authorities to go ahead with the selection process initiated pursuant to the termination of the second respondent and announce the results. However, there will be no order as to costs. Connected Miscellaneous Petition is closed.