

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

AND

The Hon'ble Justice Supratim Bhattacharya

W.P.C.T 238 of 2024

Bijoy Kumar Das

Vs.

Union of India & Anr.

For the petitioner : Mr. Bijoy Kumar Das (in Person)

For the Union of India : Mr. Pinaki Chakrabarty
Ms. Rini Bhattacharyya

Heard on : 17.02.2025

Judgment on : 17.02.2025

MADHURESH PRASAD, J.:

1. Heard the petitioner in person as well as the learned counsel for the Union of India.
2. In the year 1998 an advertisement was issued by the respondents for selecting Extra Departmental Stamp Vendor. The petitioner was one of the applicants. He was found to be the first in order of

merit and was offered the appointment with a rider that he was to acquire residence in the village where the Post Office is located in terms of the provisions contained in the executive instructions providing the method of recruitment. The relevant extract of the same reads as follows:

“4. Residence:

(i) The EDBPM / EDSPM must be a permanent resident of the village where the Post Office is located. He should be able to attend to the Post Office work as required of him keeping in view of the time of receipt, dispatch and delivery of mails which need not be adapted to suit his convenience or his main avocation.

(ii) ED Mail Carriers, Runners and Mail Peons should reside in the station of the main Post Office or stage wherefrom mails originate / terminate, i.e., they should be permanent residents of the delivery jurisdiction of the Post Office.

(iii) ED Agents of other categories may, as far as possible, reside in or near the place of their work (Letters No. 5-9/72-EL Cell, dated 18-08-1973 and No. 43-312/78-Pen., dated 20-1-1979, stand modified to this extent).”

3. The petitioner was required to acquire the residence accordingly by the letter dated 28th May, 1998. Since the petitioner could not acquire such residence within the fifteen days period allowed to him, the respondent proceeded to offer the appointment to the second empanelled candidate who was not interested. The third empanelled candidate was thus offered the appointment, who gave proof of residence in the village where the Jagaddal Post

Office was located and was thus appointed. The third empanelled candidate after his appointment immediately left the job after a day. In the circumstances the entire selection process was initiated afresh.

4. It is submitted by the petitioner in person that when the respondents asked him to acquire residence in the village where the Post Office was located vide letter dated 28th May, 1998 he had responded by saying that it was not possible to acquire residence within fifteen days and that more time should be granted which the authorities have illegally not acceded.
5. Raising such a grievance the petitioner filed a writ petition bearing W.P. 16307/W/1998. The writ petition was transferred to the Central Administrative Tribunal for consideration. The Central Administrative Tribunal, Kolkata Bench vide its order dated 16th April, 2007 considered the effect of Rule 4(iii) extracted above. It took note of the fact that earlier the consideration for the job was restricted to the residents of the concerned village where the Post Office was located. In view of several judicial pronouncements the authorities now were under an obligation to consider all eligible applicants, irrespective of the fact whether they resided in the village where the Post Office was located or not. The petitioner was thus rightly considered for appointment. The Tribunal proceeded to conclude that in view of the judicial

pronouncements and on a plain reading of Rule 4 extracted above the petitioner was under an obligation, after his selection to take a residence within the delivery jurisdiction of the concerned Post Office which he has failed to do in spite of fifteen days opportunity being granted to him. The Original Application was thus dismissed.

6. The order was assailed by the petitioner in W.P.C.T. 50 of 2008. This Court without commenting on the correctness of the order passed by the Tribunal set aside the order and directed the respondents to consider the application filed before the learned Tribunal treating the same a representation made to the authorities. After giving an opportunity of hearing to the petitioner the authorities was directed to consider the petitioner's claim in light of the provisions contained in paragraph 4(3) of the executive instructions extracted above. The authorities thus considered the matter and having regard to the legal position again rejected the petitioner's claim which was again assailed by filing an application before the Central Administrative Tribunal, Kolkata Bench. O.A. 341 of 2009 filed by the present petitioner was again dismissed in the following terms:

“9. It is evident that he has not taken up residence in Jagatdal PO. He has accordingly failed to meet the requirement. No case is made out to interfere with the orders passed by the Ld. Superintendent of Post Offices.”

7. This order of the Tribunal was again assailed by the petitioner in writ proceedings. W.P.C.T. 320 of 2012 filed by the petitioner was dismissed whereby a coordinate Bench of the High Court was of the view that the petitioner was not able to make out a case. The matter was thus concluded in between two Original Applications and two Writ Petitions filed before this High Court.
8. By filing a representation in this concluded matter the petitioner racked up the issue again before the authorities and when they refused to accede to the petitioner's prayer the petitioner has again filed an Original Application bearing number O.A. 708 of 2017. The O.A. 708 of 2017 being the third Original Application filed by the petitioner was again dismissed on 8th November, 2019 whereby and whereunder the Tribunal found that the petitioner was unable to establish any infirmity in rejection of his candidature for not acquiring the residence in the delivery jurisdiction of Jagaddal Post Office for his selection. This dismissal of O.A. 708 of 2017 was not assailed by the petitioner before the High Court. On the contrary he again proceeded to file representation and applications under R.T.I.
9. He thereafter again filed an Original Application bearing number O.A. 868 of 2023. It is the order passed therein which is the subject matter of the present proceedings. In this proceedings the

respondents have raised the issue that since the entire issue being raised by the petitioner before the Tribunal was concluded by several earlier orders including the recent rejection of his O.A 708 of 2017, the petitioner's attempt to raise the issue again and again successively by filing an Original Application for the same relief would not be maintainable. On the issue of maintainability the O.A. 868 of 2023 has been dismissed.

10. The petitioner in person submits that the orders have been passed in the several applications filed by the petitioner before the Tribunal and by a coordinate Bench of this Court, earlier due to the false and untenable stand taken by the respondents in those proceedings. He goes on to allege that such orders were passed due to the stand taken by the respondents which was in fact fraudulent and, therefore, all the earlier orders stand vitiated on account of being tainted with fraud. In the circumstances we asked him to show to the Court as to what steps he had taken after he was required to take a residence in the delivery jurisdiction of the Post Office. He submits that he had requested the authorities for granting some more time to acquire residence but they did not afford such opportunity to the petitioner.
11. The petitioner, however, has not been able to show any provisions which required the respondent authorities to wait till

such time the first empanelled candidate was able to acquire a residence within the delivery jurisdiction of the Post Office.

12. In so far as the various decisions of the Tribunals which are cited, we find that none of these decisions support the contention that the authorities are under any obligation to wait indefinitely for the first empanelled candidate to acquire residence.
13. We on the contrary of the view that once an advertisement has been issued for appointment of Extra Departmental Stamp Vendor the authorities would be required to put in place such Stamp Vendor expeditiously so as to cater to the demands of the persons living within the delivery jurisdiction of the concerned Post Office. It is for this purpose that the panel of more than one candidate was prepared.
14. Having observed so we also find that the issue has been considered repeatedly by this Court at the instance of the same petitioner in all the proceedings, taken note of above. In the circumstances we find no infirmity in the order passed by the Tribunal dismissing the petitioner's Original Application on the ground of same being not maintainable for reopening a concluded issue.
15. The writ petition is dismissed.

16. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(MADHURESH PRASAD, J.)

(SUPRATIM BHATTACHARYA, J.)

B.K.N.
A.R. (Court)