

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.291 OF 1996
ALLAHABAD THIS THE 3rd DAY OF June, 2003

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A.K. BHATNAGAR, MEMBER-J

Debi Prasad Chauhan,
aged about 25 years,
son of Kapil Deo Chauhan,
resident of S.24/1/4A,
Orderly Bazar,
Varanasi.

.....Applicant

(By Advocate Shri R.K. Sinha & Shri S.P. Sinha)

Versus

1. The Union of India,
through the Secretary,
Ministry of Communications,
Department of Posts,
New Delhi.
2. The Director of Postal Services,
Office of the Post Master General,
Allahabad.
3. The Superintendent of Post Offices,
West Division,
Varanasi.
4. Arvind Kumar Srivastava,
Branch Post Master,
Bajardiha Branch Post Office,
Varanasi Town. Respondents

(By Advocate Shri A. Shalekar)

O R D E R

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

In this O.A. filed under section 19 of Administrative
Tribunals Act 1985, the applicant has challenged the
appointment of respondent no.4 Shri Arvind Kumar Srivastava

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as Extra Departmental Sub Post Master, Bajardiha, District-Varanasi and has prayed for a direction for the respondents to allow him to work as Branch Post Master, Bajardiha.

2. The facts of the case, in short, are that the post of E.D.S.P.M., Bajardiha fell vacant on 19/29.12.1993. The employment exchange varanasi vide letter dated 20.04.1993 was requested to sponser the names. The employment exchange sponsored five names vide letter dated 14.05.1993. However, the post was again advertised on 15.06.1993 for recruitment from open market, no selection was made and another advertisement was issued vide letter dated 13.09.1993. Applications were received and the respondent no.4 Shri Arvind Kumar Srivastava was selected and appointed as E.D.S.P.M. Bajardiha vide order dated 24.03.1995. Aggrieved by this the applicant has filed this O.A. which has been contested by the respondents.

3. The main grievance of the applicant is that in order to appoint respondent no.4, the selection deliberately not done from amongst candidates sponsored by the employment exchange in pursuance to the notification dated 20.04.1993. Shri S.P. Sinha, learned counsel for the applicant submitted that there was no requirement of issuing notification on 14.05.1993 and 15.06.1993. The learned counsel for the applicant further submitted that amongst all the candidates who applied for the post, the applicant was the most merited candidate and yet the respondent no.3 appointed respondent no.4 by order dated 24.03.1995. The learned counsel for the applicant finally submitted that the action of the respondents is arbitrary and illegal. The respondent no.4 is stated to have been removed as per the newspaper report of ^{Dainik}

ⁱⁿ ⁱⁿ ⁱⁿ Jagaran, Varanasi ^{Edition} dated 23.03.2003. The post is lying vacant and the Tribunal may be pleased to issue a direction for appointment of the applicant.

4. Resisting the claim of the applicant the learned counsel for the respondents submitted that the proper course for the applicant was, to have represented to the higher authorities for the redressal of his grievance, ⁱⁿ Besides the applicant failed to provide suitable accommodation for keeping the post office. Therefore, no illegality has been committed by not appointing the applicant as E.D.S.P.M., Bajardiha.

5. We have heard counsel for the parties, considered their submissions and perused records. We have also perused the original selection file produced before us.

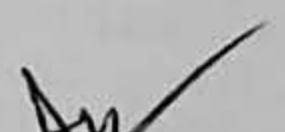
6. From the perusal of the selection file it appears that the applicant secured ^{in marks} 60% in High School ⁱⁿ of the list and as regards the merit in High School he was at the top. However, as per respondents the applicant could not be appointed as he failed to provide suitable accommodation for keeping the post office. The applicant has annexed consent letters from three people namely Shri Mohd. Yaseen, Shri Ram Janak and Awadesh Chaturvedi as annexures 2,3, & 4. However, from the perusal of the original selection file we find that the respondents made probing enquiry in this regard and there are contradictory reports.

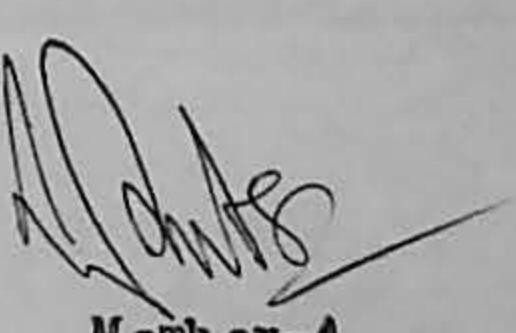
7. The applicant has also challenged the appointment of respondent no.4 and has alleged that in order to appoint respondent no.4 the notifications were being issued again and again. This is not correct. The respondent no.4 in

pursuance to the notification dated 20.04.1993 did apply for the post. The employment exchange also sponsored five names and, therefore, if respondent no.3 wanted ^{to} favour and appoint respondent no.3 he could easily appoint respondent no.4 as he was also one of the claimants. However, we find substance in the argument of the respondents that since five candidates sponsored by the employment exchange were not found suitable, the post was again advertised on 15.06.1993 from open market. The perusal of the original selection file does not establish that any irregularity or illegality has been committed by the respondents. The respondents have acted as per rules and, therefore, there is no good ground for interference.

8. For the reasons stated above, the O.A. is devoid of merit and is accordingly dismissed. However, since the post is stated to be vacant after removal of respondent no.3 as per the news report in ^{Edition} *Dainik Jagaran*, Varanasi dated 23.03.2003, the respondents may consider the case of the applicant for appointment as E.D.S.P.M., Bajardiha if he applies for selection when the action is initiated by the respondents for filling the post on regular basis.

9. There will be no order as to costs.


Member-J


Member-A

/Neelam/