

(Open Court)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Dated, Allahabad, this 19th January, 2001

CORAM: Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. Rafiq Uddin, Member (J)

M.A. Rest. No. 6580/00 in original Application No. 324/96

Vishwanath Chaudhary
S/o Sri Someshwar Chaudhary
resident of Village and Post Office- Balurpur,
District- Ballia
At present posted as E.D.D.A./E.D.M.C.,
Post Office: Balurpur, District- Ballia

....Applicant

Counsel for the applicant: Shri R.K. Pandey

V E R S U S

1. Union of India through
Post Master General, Borakhpur,
2. Director, Postal Services, Gorakhpur
3. Superintendent of Post Office, Ballia Division,
Ballia
4. Smt. Meena Devi wife of Shri Sanjeev Kumar
resident of Village and Post Office- Balurpur,
District- Ballia
At present working as E.D.B.P.M., Balurpur,
District- Ballia

....Respondents

Counsel for the Respondents: Shri R.C. Joshi

O R D E R (Open Court)

(Order by Hon'ble Mr. S. Dayal, AM)

This application has been filed for calling records relating to appointment of Respondent No. 4, setting aside the appointment letter of the said Respondent. The direction has also been sought to the Respondent No. 3 to appoint the applicant as E.D.B.P.M., Post Office-Balurpur, District- Ballia with effect from 8.5.1995 and to give all consequential benefits.

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2. The case of the applicant is that he was serving as E.D.D.A./E.D.B.P.M. in Balurpur Post Office, District-Ballia and as such he should be given priority for appointment to E.D.B.P.M., Post Office-Balurpur, District-Ballia. The applicant states that by letter dated 20.10.94 the applicants working as E.D.B.P.M. were asked to send their applications to the office of the Superintendent of Post Offices by 9.11.1994. This letter did not mention that the post was reserved for Scheduled Castes candidate. The applicant has also mentioned that condition No.3 of the said letter is clear that the application should be complete in all respect. Respondent No.4 did not send application complete in all respect because she sent Income Certificate issued by the Tehasildar, Sikanderpur on 22.11.1994 and it was included in the application on 2.12.1994 by the Respondent No.3.

3. We have heard the Learned Counsel for the applicant.

4. Learned Counsel for the applicant during his argument has drawn the attention to D.G., Post Office letter No.43-27/85-PEN dated 12.9.1988 which provides that when E.D.B.P.M. Post fallen vacant in the same post or in any post in the same place and if one of the existing E.D.D.A. prefers to work against then he may be appointed against the vacancy without coming through Employment Exchange provided he is suitable for the post and fulfils all required conditions. Learned Counsel for the applicant has also invited attention to the amendment by which words 'same place' was classified as 'same Recruitment Unit'.

5. As regards consideration and appointment of the applicant to the post of E.D.B.P.M., Post office Balurpur is concerned preference to working E.D. Agent had to be weighed against instruction of the D.G. Post and Telegraph

by letter No.43-246/77 dated 8.3.1978 by which it has been provided that wherever possible preference would be given to Scheduled Castes/Scheduled Tribes candidates apart from Post and Telegraphs and other Government Pensioners for appointment as E.D. Agents. It has been clarified in the said instruction of the D.G., Post and Telegraphs that candidate belonging to Scheduled Castes/Scheduled Tribes with minimum educational qualification prescribed in that letter dated 18.8.1973 should be given preference over other candidates belonging to other communities even if the latter are - educationally better qualified provided that candidate belongs to Scheduled Castes/Scheduled Tribes and is otherwise eligible for the post.

6. We find from the fact of the case that Respondent No.4 is a Scheduled Caste candidate and, therefore, is, therefore, entitled to preference over a serving E.D. employee as we are of the opinion that preference to Scheduled Caste candidates in this case shall outweigh the preference to be given to in serving E.D. candidates.

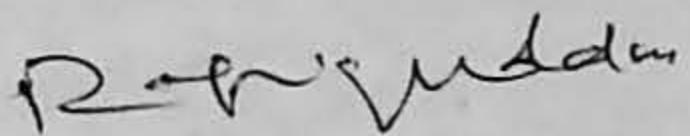
7. Learned Counsel for the applicant has taken the issue of late submission of application by Respondent No.4 and the reason mentioned for considering the application to have been submitted late is that Income Certificate issued by Tehasildar, Sikandarpur was given on 22.11.1994 and produced on 2.12.1994 while the date of receiving application was 9.11.1994. We do not find in letter dated 20.10.1994 that there was any stipulation that Income Certificate should also be submitted along with the application form. The only stipulation was that application form received after the stipulated date or/were incomplete could not be considered. It is not the case that the applicant did not posseses the -

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eligibility conditions it is true one of the eligibility conditions for recruitment was submission of application within stipulated date. The non-submission of Income Certificate was not a part of this stipulation. Therefore, we do not consider contention disputing the appointment of the Respondent No.4 mainly on this ground to be valid.

Hence the Application is dismissed as lacking in merits.

NO order as to cost.



JM



AM

kkc