

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21ST DAY OF MAY, 2003

Original Application No.419 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASRTAVA, MEMBER(A)

Mohd.Akhtar Khan, S/o Sri Mohd.  
Yasin Khan, R/o village & Post  
Office Dhaurahara, Varanasi.

... Applicant

(By Adv: Shri A.K.Sinha)

Versus

1. Union of India through  
Senior Supdt.Post Offices,  
East Division, Varanasi.
2. Smt. Poonam Pandey, W/o Arun  
Prakash Pande, R/o Vill & P.O.  
Dhaurahara, varanasi.

... Respondents

(By Advs: S/Shri G.R.Gupta/Satish Chaturvedi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the appointment of respondent no.2 as EDBPM of branch post office Dhaurahara, district Varanasi.

The facts of the case are that the person who was occupying the post of the sub post office Dhaurahara was going to retire on 31.7.1995. Therefore names of suitable candidates were requisitioned from employment exchange vide letter dated 6.3.1995 for appointment as EDBPM. Employment exchange forwarded four names including that of respondent no.2. Applicant also made an application for appointment as EDBPM. On the basis of the document produced respondents prepared a chart(Annexure CA-1) and selected respondent no.2 for appointment as EDBPM on the ground

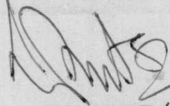
that she secured highest marks in high school. Applicant secured 44.6% marks whereas respondent no.2 secured 51.8% marks. Considering the other aspects respondent no.2 was found more suitable and she was given appointment. Thereafter applicant raised objection on 24.2.1996 ~~with his~~ that his claim should have been considered on the basis of the rules as he was serving as EDDA in the same post office. Copy of the rule has been filed as (Annexure 5). Shri A.K. Sinha counsel for applicant has submitted that the claim of the applicant should have been considered in the light of the rule and the appointment of respondent no.2 was illegal.

The counsel for the respondents on the other hand, submitted that the applicant participated in the selection with open eyes and when he was unsuccessful on account of <sup>el</sup> ~~his~~ less marks secured by him in High school he raised the claim on the basis of the aforesaid rule and it is not open to him to challenge the selection in which he participated.

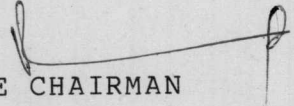
We have carefully considered the submissions made by counsel for the parties and we are of the view that the selection of respondent no.2 does not suffer from any illegality as no protest was raised by the applicant at the time of selection. He questioned the selection only after appointment of respondent no.2. In these facts and circumstances and especially in view of the facts that respondent no.2 has already served more than 7 years, we do not find it a fit case for interference by this Tribunal. However, we <sup>or leave</sup> ~~left~~ it open to the applicant to make a representation before Post Master General, Allahabad raising his claim based on the rule which may be considered and he may be adjusted against any vacant post of

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EDBPM/SPM. The claim of the applicant shall be considered within a period of six months from the date a copy of this order is filed. No order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 21st May, 2003

Uv/