

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 7th day of Oct. 2003.

Original Application no. 109 of 1996.

Hon'ble Maj Gen K K Srivastava, Member-A
Hon'ble Mr. A K Bhatnagar, Member-J

Hardeo Ram, S/o Sri Mukku Ram,
R/o Vill Naseerpur,
Distt. Ghazipur UP.

... Applicant

By Adv : Sri I Ahmad

versus

1. Union of India through the Secretary to Govt. of India,
Department of Post, Dak Bhawan, Sansad Marg,
NEW DELHI.
2. The Chief Post Master General, UP Circle,
LUCKNOW.
3. The Supdt. Post Offices,
GAZIPUR UP.
4. Rakesh Singh Yadav, CP Collie,
S/o Sri Ram Chandra Singh Yadav,
Rtd. Asstt. Director Post Offices (Personnel)
Vill and P.O. Sihori,
GAZIPUR.
5. Sri Paras Nath Singh, the then Supdt. Post Offices,
through Chief Post Master General, UP,
LUCKNOW.
6. Sri R.S. Yadav, the then Supdt. Post Offices through
the Post Master General, UP,
LUCKNOW.
7. Sri Piyush Kant Srivastava,
C/o Sri R.S.J. Bhadur,
E.M.S.O., Head Post Office,
GAZIPUR.

.... Respondents

By Adv : Sri Amit Sthalekar

...2/-

O R D E R

By Maj Gen K M Srivastava, Member-A.

In this OA, filed under Section 19 of the A.T. Act, the applicant has prayed for following reliefs:-

- i. to quash the illegal and irregular appointment of respondent no.4 made by respondent no. 3,
- ii. to quash the illegal appointment of respondent no. 7 made on 9.4.1997,
- iii. to direct the respondents to appoint the applicant as C.P. Collie in view of the highest merit as demonstrated & established,
- iv. to direct respondent no. 1 to initiate disciplinary action against respondent no. 3 for malafide exercising of statutory powers for illegal and collateral purposes bestowing favours upon ineligible and underserving persons under pressures and influence of others.
- v.
- vi.

2. The facts of the case, in short, are that the applicant ~~.....~~ passed the Technical Training of Electrical Wireman from Industrial Training Institute, Department of Labour, Govt. of India, Ghazipur in 1987. He gained practical experience as Apprentice Lineman from 6.2.1992 to 5.2.1994 under apprenticeship Act in the Office of Executive Engineer UP State Electricity Board, Electric Distribution Division, Basti. Notifications were issued by respondent no. 3 on 2.3.1990 and 20.1.1992 for filling the vacancies of C.P. Collie for maintenance of Electrical installations in Post Office buildings on 2.3.1990 and 20.1.1992, when the father of respondent no. 4 was posted as Supdt. of Post Office, Ghazipur. The name of the applicant was sponsored by the Employment Exchange. However, no selection was made as alleged by the applicant and since respondent no. 4 ie.

3.

Shri Rakesh Singh Yadav did not possess the required eligibility nor was registered at Employment Exchange, Ghazipur, the then respondent no. 3, who was the father of respondent no. 4 did not finalise the selection. The father of respondent no. 4 was transferred and one Shri Paras Nath Singh (respondent no. 6) assumed the charge as respondent no. 3. Fresh requisitions were sent to Employment Exchange, Ghazipur on 27.1.1992 & 26.2.1993, but no selection was made because respondent no. 4 was under training in a private Gramin Training Institute recognised by UP Govt.

3. The grievance of the applicant is that the post of C.P. Collie was deliberately kept vacant from March 1990 to May 1994 to accommodate respondent no. 4 till he acquired the technical training and got himself registered with the Employment Exchange in June 1994. Another requisition was made to the Employment Exchange in May 1994 to sponsor the names of the candidates for the said post. Five names were sponsored by the Employment Exchange. All the persons who were sponsored by the Employment Exchange were directed by letter dated 9.6.1994 to submit the copies of the documents. When the applicant came to know that respondent no. 4 was selected on the said post, he filed representation before respondent no. 3 on 27.10.1994 followed by representations dated 21.12.1994, 7.2.1995, & 13.8.1995. Since the applicant did not get any justice from the respondents, he filed this OA on 25.1.1996. Subsequently, the applicant ^{filed} ~~an~~ amendment application challenging the appointment of respondent no. 7 made on 9.4.1997. The OA has been contested by the respondents by filing CA.

4.

4. Sri I Ahmad, learned counsel for the applicant, submitted that the entire action of the respondents is illegal, arbitrary and discriminatory. The applicant has been denied his right of appointment on the post of C.P. Collie only in order to accommodate the son of respondent no. 6 who happens^{to be} an officer of the Department of Posts and was holding an important post. Learned counsel for the applicant further submitted that the applicant was fully trained and he could have been appointed in response to the first notification of 1992. But since respondent no. 6 was adopting all measures^{to} ensure that his son was selected for the said post, the earlier requisitions were cancelled. Besides the ground of the applicant is that, he possess qualification and he is the most suitable candidate for the said post, therefore, his claim should be considered and necessary direction be issued to the respondents.

5. Resisting the claim of the applicant, Sri A Sthalekar, learned counsel for the respondents submitted that the applicant can hardly be aggrieved on^{to} the impugned letter dated 9.6.1994 informing the applicant that his name has been forwarded by the Employment Exchange for being considered for appointment in the pay of Rs. 750/- and, therefore, the applicant should submit his application alongwith certificates. The impugned letter dated 6.7.1994 is appointing Sri Rakesh Singh Yadav on the post of C.P. Collie Postal Division Ghazipur in the pay scale of Rs. 750-940 provisionally and temporary on adhoc basis. This order is legal and valid.

5.

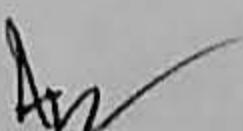
6. Learned counsel for the respondents has also submitted that application is barred by period of limitation as the applicant has challenged the orders dated 9.6.1994 & 6.7.1994 only in the year 1996. Learned counsel for the respondents further submitted that the Cut Off date for submissions of applications required by order dated 9.6.1994 was upto 21.6.1994. The applicant's application was received after one day of the prescribed date i.e. 22.6.1994 and the application was not at all received from one Sri Atahar Abbas, whose name was sponsored by the Employment Exchange. The DPC met on 5.7.1994, considered the applications of 3 candidates i.e. S/Shri Ravindra Nath Verma, Ashok Kumar and Rakesh Singh Yadav and recommended for appointment of respondent no. 4. Respondent no. 4 is working on the post since 7.7.1994 continuously and satisfactorily. Learned counsel for the applicant also submitted that the names sponsored by the Employment Exchange in response to requisition dated 10.10.1991 were not considered as none of the candidates was fulfilling the required qualification. Besides, in response to the requisition dated 16.12.1991, Employment Exchange, Ghazipur failed to sponsor the names of the candidates. The applicant's allegation that the respondent no. 4 was illegally transferred as CP Collio ^{is far from truth} ~~Rao Branen~~ so that his interest could be protected. The selections have been made on the basis of ~~XXXXXX~~ the recommendation of the duly constituted selection committee.

7. We have heard learned counsel for the parties, considered their submissions and perused record.

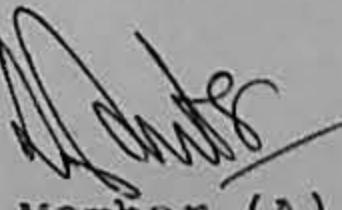
8. The allegation of the applicant is that no

selection was made in 1991 by respondent no. 6 as he was interested in adjusting his son who is respondent no. 4. We do not find much substance in this argument. In case the applicant was so aggrieved on this issue he should have raised the issue then and there before the higher authorities which he did not. We do not find any substance in the allegation, what-soever and we agree with what has been stated by the respondents in para 8 of the counter affidavit. It cannot be denied that the selection of respondent no. 4 was made as per recommendation of duly constituted selection committee. The allegation of the applicant that respondent no. 4 was transferred to Ra^h Branch ^h Boreli illegally has no substance. The respondents have stated in para 4 of the Suppl Counter Affidavit that respondent no. 4 was transferred to Ra^h Branch ^h Boreli on his own request by the Chief Post Master General, UP Circle, Lucknow, according to the Rules of the Department and not for the purpose of protecting the appointment of respondent no. 4. The respondents have also stated in para 5 of the Suppl. counter affidavit that Sri Piyush Kant Srivastava, respondent no. 7, has also been engaged and not appointed on the post to pull the work till the outcome of this OA. The respondents have committed no illegality in not considering the name of the applicant for selection made during 1994 because the applicant's application was not received by cut off date i.e. 21.6.1994.

9. In view of the above, we do not find any merit in the case. The OA is liable to be dismissed. The OA is accordingly dismissed with no order as to costs.



Member (J)



Member (A)