

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 91 of 1996

alongwith

Original Application No. 932 of 1996

Allahabad this the 25th day of August, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Mr.M.P. Singh, Member (A)

O.A.No. 91 of 1996

Sri Sharvan Kumar, aged about 20 years, S/o
Shri Sheo Mangal, R/o Village and Post Sathiaon,
District Azamgarh Extra Departmental Branch Post
Master, Sathiaon, Azamgarh.

By Advocate Shri H.S. Srivastava

Versus

1. Union of India through the Secretary,
Ministry of Post & Telegraph, New Delhi.
2. The Post Master General, Gorakhpur.
3. The Senior Superintendent of Post Offices,
Azamgarh.
4. Sri Omkar Yadav S/o Sri Kishore Yadav, R/o
Village and Post Sathiaon, District Azamgarh.

Respondents

By Advocates Km.Sadhna Srivastava
Shri S.P. Singh(private)

O.A.No. 932 of 1996

Omkar Yadav, S/o Late Kishor Yadav, R/o Village
& P.O. Sathianv, District Azamgarh.

By Advocate Shri S.P. Singh Applicant

Su

.....pg.2/-

1. Union of India through Secretary, Ministry of Post and Telegraph, New Delhi.
2. The Post Master General, Gorakhpur.
3. The Senior Superintendent of Post Offices, Azamgarh.
4. Shri Shravan Kumar, S/o Shri Shiv Mangal, R/o Village & P.O. Sathianv, District Azamgarh.

By Advocates Km. Sadhna Srivastava
Shri H.S. Srivastava(private)

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

A vacancy accrued at P.O. Sathiaon for the post of E.D.B.P.M., for which the S.S.P.O. sent requisition to Employment Exchange on 05.8.94 to sponsor the names of suitable candidates with minimum 3 and maximum 5. The last date for submission of this list was 04.9.94. The Employment Exchange submitted the list of 5 candidates accordingly, which consists of Omkar Yadav and 4 others. When this list was being processed, one of the candidate withdrew his name for having got some job elsewhere, and then voluntarily, the Employment Exchange sent the name of Sharwan Kumar on 09.9.94. The S.S. P.O. found this subsequently sent candidate to be fittest and issued appointment letter. This act of S.S.P.O.-respondent no.3 was agitated from several quarters, which warranted the intervention of P.M.G. Gorakhpur, who settled the matter by cancelling the appointment of Sharwan Kumar. Against this order, Shri Sharwan Kumar

came up before the Tribunal through O.A.No. 1880/94, in which Omkar Yadav got himself impleaded through Impleadment Application. This O.A. was decided with direction to the respondent no.2 to give hearing to the applicant and Omkar Singh Yadav, and then to pass a reasoned and speaking order. In compliance of this direction, P.M.G., Gorakhpur passed the order on 18.1.1996 with the conclusion that the selection be cancelled and the vacancy be filled through fresh process. This order was not acceptable to either Shri Sharwan Kumar or Shri Omkar Yadav and, therefore, Shri Omkar Yadav filed O.A.No.932 of 1996 and Shri Sharwan Kumar came up through ^{the} O.A.No.91 of 1996. The main contention on behalf of Shri Sharwan Kumar is that his regular appointment cannot be cancelled by an authority, who is not the appointing authority or at the behest of higher authority, whereas Shri Omkar Yadav has a case that amongst the candidates whose names were sent by the Employment Exchange in response to requisition by the S.S.P.O., his name was at the top and the appointing authority ought to have considered his candidature along with the other candidates and then should have decided the best amongst them. It has further been mentioned that the requirement through requisition was to send the list of candidates, not less than 3 and not more than 5 and, therefore, after withdrawal of one of the candidates, the list remains having 4 candidates and, therefore, the number was sufficient to be considered being more

Law

:: 4 ::

than 3. Shri Omkar Yadav has also pointed out that the list submitted by the Employment Exchange on 03.9.94 was received in the respondents office on 05.9.94, ought to have been taken as submitted within time because on 03.9.94 it was Saturday and 04th was Sunday, therefore, both these dates were non-working days, for which the list remitted on 03.9.94 could be received by respondents office on 05.9.94. With these submissions, Shri Omkar Yadav has sought for relief to quash the impugned order of P.M.G., Gorakhpur and to direct the respondents to appoint the applicant on the post of E.D.B.P.M., on the basis of list of the candidates sent by the Employment Officer, Azamgarh.

2. The respondents have contested the case mainly on the ground that the P.M.G., Gorakhpur probed the matter thoroughly and found some glaring irregularities and, therefore, passed the order to cancel the process of selection in which Shrawan Kumar has been issued letter of appointment and also to take fresh steps for the appointment to the post in question.

3. Heard, the learned counsel for the parties and perused the ~~cor~~ record.

4. In view of the fact that both the O.A.s have been filed seeking relief against the order of P.M.G., Gorakhpur, therefore, the O.A.91/96 and 932/96 are being disposed through one order.

.....pg.5/-

Stey

5. First we take up the contention of Shri H.S. Srivastava, learned counsel for the applicant-Shrawan Kumar in O.A.No.91/96. He has mainly pressed the point that the appointment of applicant-Shrawan Kumar could not be cancelled at the behest of superior authority than the appointing authority and this order of cancellation of appointment is actually by P.M.G., Gorakhpur, which was only communicated through S.P.O. and , therefore, it is not the order by the appointing authority, hence not maintainable. We gave thoughtful consideration to this contention and we find that in O.A. filed earlier i.e. 1980/94, Shri Sharwan Kumar raised this point also and after having given due consideration, the Tribunal passed the order in that O.A.directing P.M.G. Gorakhpur to again ^{and} consider his order and pass speaking/ reasoned order, after giving opportunity of being heard to Shri Sharwan Kumar and Shri Omkar Yadav. It goes to indicate that this plea of the applicant-Sharwan Kumar was not accepted in that O.A. and ^{hence} it is why P.M.G. Gorakhpur was directed to further probe the matter and pass order. Therefore, we do not find necessary to go deep into this contention, which has already been decided by the Tribunal in earlier O.A., as referred above.

6. So far as the case of Omkar Yadav is concerned, we find that the impugned order

.....pg.6/-

Sav

:: 6 ::

of P.M.G., Gorakhpur dated 18.1.1996 is well reasoned, detailed and speaking order, which appears to have been passed not only in view of irregularities allegedly committed in the process of appointment, but also to uphold the credit of department he is serving. We do not find any good reason to set aside this order, as prayed for.

7. For the above, we do not find any merit in either of two O.As and thereby O.A.No. 91/96 as well as O.A.No.932/96 are dismissed. However, if during the fresh process of selection the names of candidates are sent again by the Employment Exchange, who were in the list submitted on 03.9.94, they may be considered on merit. No order as to costs.

SAJ
Mou 202 (A)

SAJ
Mou 202 (7)

Cyber 3/1
8/9/96