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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 2nd day of July, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava, A.M.

Orginal Application No. 128 of 1997.

Smt. Usha, Wife of Sri Brij Narain Dubey

R/o Mohalla Katra, Post- Gandhi Nagar, Distt. Basti.

.....Applicant.

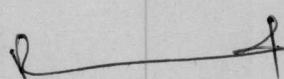
Counsel for the applicant :- Sri M.K. Upadhyay

V E R S U S

1. Union of India through the Assistant Director (Recruitment), U.P., Lucknow.
2. Post Master General, Gorakhpur Region, Gorakhpur.
3. The Superintendent of Post Offices, Basti.
4. Purshottam Nath S/o Sri Vishnu Mohan Gopal R/o Berihawan, Gandhi Nagar, Basti.
5. Ravindra Kumar Verma, S/o Sri Shiv Shankar Verma R/o Village- and Post- Sohratgarh, Sidharth Nagar.
6. Km. Arshad Banoo, R/o Village and Post Sohratgarh, Distt. Sidharth Nagar.
7. Karan Raj Chaudhari, R/o Village and Post- Dal Dala, Distt. Siddharth Nagar.

.....Respondents.

Counsel for the respondents :- Sri S.C. Tripathi



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O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this O.A under section 19 of the Administrative Tribunal's Act, 1985, applicant has challanged the order dt. 07.11.1996 and select list published on 12.11.1996.

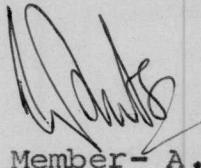
2. The facts in short giving rise to this dispute are that the candidates were considered for selection and ~~for~~ appointment as Postal Assistant after regular written test and interview. The select list was published on 17.10.1996, a copy of which has been filed as annexure-2. In this select list, the name of the applicant was shown at Sl. No. 2 as general candidate. Respondent No.3, however, by order dt. 07.11.1996 cancelled the select list and published a new select list on 10.11.1996, a copy of which has been annexed as annexure- B. In this list, marks secured by each candidates have also been mentioned. Aggrieved by the cancellation of the list and publishing a fresh list, applicant has approached this Tribunal.

3. Learned counsel for the applicant has submitted that as the applicant was selected for appointment, she was entitled for an opportunity of hearing before passing the impugned order. However, it is not disputed that the applicant was not appointed on the basis of selection list dated 17.10.1996. From comparison of the two lists, it appears that the applicant Smt. Usha and one Sri Sachindra Nath Pathak were shown at Sl. No. 2 and 3 as general candidates. In OBC catagory Sri Purshottam Nath and Sri Ravindra Kumar Verma were mentioned. In the new list published on 12.11.1996, both Sri Purshottam Nath and Sri Ravindra Kumar Verma have been included alongwith general candidates on the basis of high percentage of marks secured by them and in OBC catagory, fresh names have been included. In this manner, applicant has been excluded

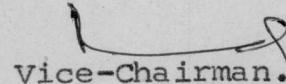
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from the list. There is no dispute about legal position that despite being a candidate of reserved catagory, he secured higher percentage of marks, he has to be selected alongwith the general candidates. This legal position has been given effect by publishing the new list and list earlier published has been corrected. In the circumstances, there was no question for giving opportunity of hearing to the applicant. Learned counsel for the applicant relied on the judgement of Hon'ble Supreme Court in case of A.M.S Sushanth & Ors. Vs. M. Sujatha & Ors. 2000 SCC (L&S) 317, and has submitted that the opportunity of hearing ^{should} have been given to the applicant. However, in the case before Hon'ble Supreme Court, the appointments were given by Kerala State Cooperative Federation Limited. As the appointments were given after selection, the opportunity was required to be given. However, in the present case, on the basis of select list dt. 17.10.96, no appointments were made. The mistake was realised ^{and} it was corrected. The case relied on by the learned counsel for the applicant is clearly distinguishable and does not help the applicant in any way. The application has no merit and is accordingly dismissed.

4. There will be no order as to costs.



Member - A.



Vice-Chairman.

/Anand/