

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1088/1997

FRIDAY, THIS THE 26TH DAY OF APRIL, 2002

HON'BLE MR.JUSTICE R.R.K. TRIVEDI .. VICE CHAIRMAN

HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

Subhash Chandra,
aged about 18 years, 2 months,
S/o Sri Jokhan,
Permanent resident of Village: Siswa,
Post: Gulariha Sirma, presently
R/o house of Rajendra Prasad Chaudhary,
Village & Post: Daridiha (Mundwa),
District: Basti. ... Applicant

(By Advocate Shri J.M. Sinha/M.K. Upadhyaya)

Versus

1. Union of India, through
the Secretary,
Department of Post,
Ministry of Communication,
Dak Bhawan, New Delhi.
2. Supdt. of Post Offices,
Basti - 272 001.
3. Sub-Divisional Inspector of Post Offices,
Khalilabad Sub-Division, Sant Kabirnagar,
District Sant Kabirnagar, U.P.
4. Shri Sugreeva Kumar,
aged about 25 years,
S/o Shri Shiva Murat, EDMP, Daridiha,
R/o Village Behil Post Pagar (Bankati),
District Basti. ... Respondents

(By Advocates S/Shri S.C. Tripathi for R-1 to 3
and Bechuram holding brief of Shri Rajesh
Mishra for R-4)

ORDER

By this O.A. under Section 19 of the A.T. Act, the
applicant has challenged the selection of Respondent
No.4, as EDMP, sub-post office Daridiha Branch Post
Office, District Basti.



...2..

2. The counsel for the applicant has submitted that this post was held by Shri Sathya Vijay Sharma, who was a general category candidate. After he was promoted on 2.7.1997 as Village Postman, the vacancy occurred. The learned counsel has submitted that in view of the Government Order O.M. No.36012/2/96 Estt.(Res), dated 2.7.1997, as the post was held by a general candidate it should have been filled up by selecting a candidate of general category. Whereas, Respondent No.4, is of S.C. category. It is submitted that the selection was against the O.M. dated 2.7.1997.


3. Shri Upadhyaya has placed before us the aforesaid O.M. which reads as under:

"....The application of reservation on the basis of these rosters was called into question before Courts. The constitution bench of the Supreme Court in the case of R.K. Sabharwal Vs. State of Punjab as well as J.C. Mallick Vs. Ministry of Railways has held that the reservation of jobs for the backward classes SC/ST/OBC should apply to posts and not to vacancies. The court further held that the vacancy based rosters can operate only till such time as the representation of persons belonging to the reserved categories, in a cadre, reaches the prescribed percentages or reservation. Thereafter the rosters cannot operate and vacancies released by retirement, resignation, promotion etc. of the persons belonging to the general and the reserved categories are to be filled by appointment of persons from the respective category so that the prescribed percentage of reservation is maintained."

From the aforesaid, it is clear that the ^{direction could be applicable if} post based reservation was achieved in respect of the reserved

categories. In the present case, the applicant has not been able to satisfy us that the prescribed percentage has been achieved in respect of the reserved category candidates in the cadre of EDPM.

4. In the circumstances, we do not find any illegality in the selection. The O.A. is dismissed. No order as to costs.



MEMBER (A)



VICE CHAIRMAN

psp.