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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 765 of 1997

Allahabad this the 11th day of April, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr.C.S. Chadha, Member (A)

Manindra Kumar Mishra, Son of Shri Kamla Prasad
Mishra, resident of Village & Post Samahan, Distt.
Allahabad.

Applicant

By Advocate Shri O.P. Gupta

Versus

1. Union of India through the Secretary, Ministry
of Post & Telegraph, New Delhi.
2. Senior Superintendent of Post Office, Allahabad.
3. Sub Divisional Inspector, Meja Division, District
Allahabad.
4. Akhilesh Kumar Mishra, Son of Nand Kumar Mishra,
R/o Village and Post Somhan, District Allahabad.

Respondents

By Advocates Shri D.S. Shukla
Shri H.S. Srivastava

O_R_D_E_R (Oral)

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

By this application filed under Sec.19
of the Administrative Tribunals Act, 1985 the applicant
has challenged the appointment of respondent no.2 as
Extra Departmental Runner and has also challenged the
order dated 10/05/1997, by which notification has been
cancelled.

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2. The facts in short giving rise to this application are that a requisition was sent to Employment Exchange for appointment of Extra Departmental Runner in the Post Office Samhan District Allahabad. The Employment Exchange forwarded the following names vide letter dated 27.03.1997

- "1. Daya Ram
2. Sushil Kumar
3. Satya Pal
4. Trilok Nath Mishra
5. Manindra Kumar Mishra (the applicant)"

However, the notification under which selection took place was cancelled vide order dated 10.03.97 by Sub Divisional Inspector(P) Meja, Allahabad, and respondent no.4 was appointed. Aggrieved by which the applicant has approached this Tribunal.

3. Counter-reply has been filed wherein it has been stated that after receipt of the names from the Employment Exchange, letter was sent to Shri Daya Ram but the letter was received back with the postal receipt 'not known'. Shri Sushil Kumar another candidate did not submit his application. The applications were, however, submitted by 3 candidates including the applicant. Thereafter Shri Kedar Nath Gupta, Mail Overseer who was entrusted the work of verification, submitted his report that Shri Trilok Nath Mishra has withdrawn his candidature.

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Thus, there remained only two applications, one of the applicant and another of Satya Pal. As there was only two applications, selection could not take place and it was cancelled as stated above and respondent no.4 was appointed on the responsibility of Shri R.S. Mishra, Postal Assistant from the Office of P.M.G., Allahabad.

4. The submission of learned counsel for the applicant is that Shri Trilok Nath Mishra never withdrew from the selection and filed application before the departmental authority, copy of which has been filed as annexure-5. Submission to this effect has been made in para-4.19 of the O.A. However, in counter-reply this fact has not been denied. It is true that para-4.19^{was} added by the amendment, but the respondents had ample opportunity to deny the averments. Annexure A-5 is the copy of the application which was moved before the Postal Inspector, Meja, Allahabad, and Senior Superintendent of Post Offices, Allahabad. He specifically stated that the whole selection has been got cancelled by making false statement about withdrawal of the application. It was a very serious matter. Long before the order was passed, ~~if~~^{if} such averment was made before the authority, they were required to examine the matter, however no action was taken and the respondent~~no~~.4 has been continued.

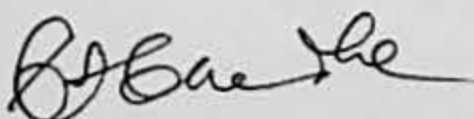
5. Considering the entire facts and circumstances


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we are of the view that the respondents ~~authority~~^{authorities} did not act fairly and things were manipulated so as to accommodate ~~the~~^{the} respondent no.4 and cancel the notification for selection. In the circumstances, the applicant appears to be entitled for the relief.

6. The O.A. is accordingly allowed. The order dated 10/03/97 cancelling the notification is quashed. The respondents are directed to complete the selection of Extra Departmental Runner from amongst the three candidates namely Satya Pal, Trilok Nath Mishra and the applicant. This exercise shall be completed within 3 months from the date of a copy of this order is filed before the respondent no.2. Immediately on selection of the regular candidate, the appointment of respondent no.4 shall stand cancelled. There shall be no order as to costs.


Member (A)


Vice Chairman

/M.M*/