

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD  
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Original Application No. 944 of 1997

Dated : This the 16<sup>th</sup> day of January, 2004

HON'BLE MR. V.K.MAJOTRA, VICE-CHAIRMAN  
HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Tejendra Kumar son of Sri Gulzari Lal,  
resident of village and Post Badera, District  
Pilibhit.

.....Applicant

By Advocate :- Shri S.K.Pandey

Versus

1. Union of India through Director General Post and Telegraph New Delhi.
2. Post Master General, Bareilly.
3. Senior Superintendent Post Office Nainital Mandal, Nainital.
4. Kunwar Sen son of Sri Onkar, Resident of village and post Badera, District Pilibhit.

.....Respondents.

By Advocate : Shri S.C.Tripathi.

O R D E R

By Hon'ble Mrs. Meera Chhibber, Member J

By this O.A. applicant has sought the following relief(s):

- " (i) quash the impugned order dated 06.11.1996 appointing respondent no.4 on the post of branch post master Badera.
- (ii) direct the respondents No.2 to appoint applicant on the post of Branch Post Master Badera, Pilibhit.
- (iii) pass such other and further order which this Tribunal may deem fit and proper under the circumstances of the case.
- (iv) award costs of this application to the applicant. "

2. It is submitted by the applicant that the Senior Superintendent of Post Offices, Nainital invited names for appointment from Employment Exchange for the post of Branch Post Master Badera Pilibhit and the name of the applicant was duly forwarded alongwith other candidates.



He has also submitted that this post was reserved for backward classes and since the applicant belongs to backward class and possessed all the requisite qualifications. He was entitled to be appointed on the said post. However, ignoring his merit the appointment was issued in favour of respondent no.4, Shri Kunwar Sen. It is submitted by the applicant that the Gram Pradhan had issued certificate that the applicant has a Pucca House for opening a Post Office on 26.11.1995(Annexure A-IV). Similarly Tehsildar had issued the income certificate also on 18.11.1995 that the annual income of the applicant was Rs.9600/- per annum (Annexure A-V). He possessed landed property also(Annexure-VI) and had obtained higher marks than the said Shri Kunwar Sen. He even possessed a good moral character and character certificate was issued by M.P. Dr. Paras Ram (Annexure A-VIII) Therefore, there is no justification at all to ignore him and give appointment to a person who had scored lesser <sup>18</sup> marks than the applicant.

3. Being aggrieved he gave a representation to respondent nos. 1 to 3 stating therein that appointment has not been made in accordance with merit but is done due to illegal consideration (Annexure-X) followed by another representation dated 20.01.1997 but since no reply was given by the respondents Applicant did not have any other option but to file the present O.A.

4. This O.A. is opposed by the respondents who submitted that after the post of E.D.B.P.M. Badera, Vishal-pur Pilibhit had fallen vacant. Employment Exchange sent the names of five candidates including the applicant and respondent no.4 both. Therefore, all those sponsored candidates were asked to ~~have~~ submit their applications alongwith relevant documents and on the basis of applications received from the candidates, enquiries were made by the S.D.I., Pilibhit wherein it was found that Shri : Kunwar Sen was <sup>the</sup> ~~the~~ most

8

suitable candidate as per the requirement from the report submitted by the magistrate it revealed that applicant had a Kuchha house whereas respondent No.4 had a Pucca house. They had further explained that though the applicant had scored higher marks than respondent No.4 but since he did not have suitable accommodation for opening a Post Office. Therefore, respondent No.4 was found to be a better candidate than the applicant. Counsel for the respondents submitted that for opening a Post Office it would not be safe to open the office in a Kuchha house as apart from money orders, cheques, money and stamps are also to be kept in the office. Therefore, it is necessary to have a suitable accommodation for the said office. They have denied that the appointment is based on any illegal consideration and have submitted that the same was done on the basis of proper evaluation of the facts given in the chart which is annexed with the counter affidavit.

5. Counsel for the applicant has reiterated his stand in the Rejoinder Affidavit and annexed a photograph to show that he had a pucca house alongwith the certificate of Sadasya Kshetra Panchayat. He has also annexed the letter dated 06.12.1993 from the department of Post wherein it was clarified that it is not necessary to have the permanent residence in the same village as a pre condition for appointment. However, whenever any candidate is selected he must before appointment take up his residence in the village jurisdiction of the Post Offices as the case may be. Therefore, counsel for the applicant submitted that his candidature could not have been ignored on the ground that he had a kuchha house.



6. We have heard all the counsel and perused the pleadings as well.

7. The respondents have annexed full chart of the selection with counter affidavit and also the report submitted by the office of District Magistrate with regard to the verification about the status of the house of all the candidates. Perusal of the selection chart shows that even though applicant had scored 43.83% marks in the High School which was higher than respondent No.4 as he had scored only 43.33% marks in the High School yet applicant was not selected because as per District Magistrate's report applicant was having only a Kachha house while respondent No.4 fulfilled all the requirement including a Pucca house. It is relevant to note that the report submitted by the respondents is given by the District Magistrate whereas applicant has annexed the certificate from Sadasya Kshetra Panchayat which does not even bear a date, therefore, it is not known when the said certificate was issued, whereas the report given by the office of District Magistrate has a proper date, therefore, definitely the report of District Magistrate has to be given preference over the other. Now the question arises whether a person who had only a Kuchha House in the village could have been appointed as E.D.B.P.M. We have to keep it in mind that the E.D.B.P.M. has to open a Post Office in the accommodation which is to be provided by the candidate himself for the purposes of opening a Post Office. It is, therefore, important to see the condition of the house offered for the said purpose. If the District Magistrate had certified that the house offered by the applicant is Kuchha definitely it would not be safe to open a Post Office in the said house. After all there would be money orders and other important documents required to be kept in a post office. Therefore, if respondents have selected a person, who had offered the pucca accommodation. We do not find any illegality in the said orders. The O.A. <sup>is</sup> found devoid of merit. ~~and~~ The same is accordingly dismissed with no order as to costs.