

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 112 of 1997

Allahabad this the 16th day of December, 2002

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Anurag Goswami, aged about 20 years S/o Shri Maheshpuri Goswami, R/o House No.289, Rajiv Bhawan, G.T. Road, Etah 207001.

By Advocate Shri Rakesh Verma Applicant

Versus

1. Union of India through Secretary, Ministry of Communication(Dept.t.of Posts), New Delhi.
2. The Chief Post Master General, U.P.Circle, Lucknow.
3. The Superintendent of Post Offices, Etah Division Etah-207001.
4. Kamal Kishore S/o Snehi Lal, R/o Mohalla-Jatapura Varmiki Nagar, Etah.

By Advocates Shri O.P. Gupta (private)
Km.S. Srivastava (Official)

O R D E R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This O.A. has been filed for setting aside the memo dated 28.01.97 cancelling the selection of the applicant on the post of Postal Assistant. The direction is sought to the respondents to offer appointment to the

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applicant on the post of Postal Assistant from the date of appointment of other candidates, who were selected alongwith the applicant. It has also been prayed that O.M.No.36012/1/88-Est(SCT) dated 22.05.89 issued by the Government of India, be declared unconstitutional, ultra vires and void.

2. The applicant had appeared in the examination for the post of Postal Assistant and had been empanelled and deputed for training. Before his appointment, however, it was found that a S.C. candidate, who is respondent no.4, had succeeded on the basis of merit and had to be taken against the candidate belonging to non-reserved category. Therefore, the applicant who was last in the panel for the candidates selected on the basis of merit for general category, had to be pushed out and the applicant was, therefore, not offered appointment. This has given occasion to file this application.

3. We have heard the arguments of Shri Rakesh Verma, counsel for the applicant and Km.Sadhna Srivastava for the official respondents and Shri O.P. Gupta learned counsel for the private respondents no.4.

4. It has been urged before us by learned counsel for the applicant that the applicant had been empanelled for appointment to the post of Postal Assistant after due selection. He was not pushed out of the list on account of resorting to any unfair means or any lapses in the selection process. He was pushed out only because of an error on the part of the respondents in not

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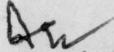
considering a S.C. candidate against general vacancy as required by the O.M. dated 22.05.1989 of the Department of Personnel and Training.

5. The first issue to which we have to address ourselves is whether the O.M. dated 22.05.89 is rational or not. The O.M. merely laid down that the S.C./S.T. candidates who are selected on their own merits without relaxed standards, alongwith candidates of other communities, will not be adjusted against the reserved share of vacancies. This cannot be taken exception to because the candidates who have made good under the standards applicable to the general candidates are taken against the general candidates category and the candidates belonging to reserved category qualifying under relaxed standards are adjusted against the reserved quota, without applicability of which they would not have made it into the services. A S.C./S.T. candidate is not precluded from contesting against the vacancies meant for general candidates.

6. As regards the claim of learned counsel for the applicant that the Apex Court in Prem Prakash Vs.U.O.I. & Ors.1995 S.C.C.(L&S) 349, has laid down that justice caused to some should not resulted in injustice to others. The facts in the case decided by the Apex Court relied upon by the learned counsel for the applicant are that the candidates empanelled in a earlier panel were sought to be adjusted against the subsequent recruitment whereby affecting the candidates empanelled in that recruitment. In the case before us, the vacancies of the same year are to be filled up from amongst the candidates selected in that year by virtue of adjustment of the S.C. candidate

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against general category no vacancy is left which can be filled by the candidates so dislocated. It is settled law that mere inclusion in the panel gives no indefeasible right to a candidate to be appointed. For sufficient cause, a candidate included in the panel may not be appointed. We are of the view that such a cause exist in this case, therefore, we dismiss the O.A. with no order as to costs.


Member (J)
Member (A)

/M.M./