

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.197/1998

TUESDAY, THIS THE 16TH DAY OF APRIL, 2002

HON'BLE Mr. C.S. CHADHA .. MEMBER (A)

HON'BLE Mr. A.K. BHATNAGAR .. MEMBER (J)

Subh Narain Misra,
aged about 35 years,
S/o late Shri Govind Misra,
R/o Village and Post Office Hariha Kala,
District Ballia. ... Applicant

(By Advocate Shri S. Pandey)

versus

1. Union of India, through
Post Master General,
Gorakhpur.
2. Director of Postal Services,
Gorakhpur Mandal, Gorakhpur.
3. Superintendent of Post Offices,
Ballia.
4. Mr. Jakhoo Singh,
Superintendent of Post Offices,
Ballia.
5. Up-Mandliya Nirikshak (Dakghar), Poorvi
Up-Mandal, Bairia/Ballia.
6. Mr. Hari Shanker Lal,
Up-Mandliya Nirikshak (Dakghar),
Poorvi Up-Mandal, Bairia/Ballia.
7. Janardan Prasad,
S/o Shri Param Hans Prasad,
R/o Village and Post Office-Hariha Kala,
District Ballia. ... Respondents

(By Advocate Shri A. Sthalekar)

O R D E R

Hon'ble Mr. C.S. Chadha, Member (A):

The case of the applicant is that the post of
Branch Post Master at Handihan Kalan (Revati), Ballia,
fell vacant and the department called names from the
Employment Exchange in the first instance. All the five
for

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candidates sponsored by the Employment Exchange did
not respond to the departmental call to send their
documents and papers. The department then advertised
openly vide Annexure-A3, dated 12-10-1997 and the
applicant also applied. He had the highest percentage
of marks in Matriculation and fulfilled all the require-
ments and should have therefore been selected for the
post. Overlooking his claim, the respondents appointed
Respondent No.7 under the plea that he belonged to OBC
category.

2. The learned counsel for the respondents drew our
attention to the requisition sent to the Employment
Exchange which bears a condition that other qualifica-
tions being equal, preference will be given to the OBCs/
SCs/STs. On the other hand, the learned counsel for the
applicant states that the requisition to the Employment
Exchange is not relevant, *but* the relevant advertise-
ment at Annexure-A3 does not bear any such condition.
If an OBC/SC/ST candidate had to be appointed, the same
should have been clearly mentioned in the advertisement.
In the advertisement, no such reservation has been
mentioned for OBC candidates. In view of this, over-
looking of the claim of the applicant who was No.1 in
the merit list cannot be justified.

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3. The learned counsel for the respondents has ~~sought~~ cited the ruling of the Hon'ble Supreme Court in TARIQ ISLAM Vs. ALIGARH MUSLIM UNIVERSITY 2001(8) SCC 546, wherein it was held that an appointment made in such circumstances should not be set aside after several years. We are afraid, that this ruling does not help the respondents because in that case there was a ~~doubt~~ about the eligibility of the rival selectees.

~~On the appointing authority~~
The Hon'ble Supreme Court had held that ~~it~~ cannot take ~~On~~ so long to settle that doubt. In this case, the appointment was ab-initio illegal and partisan. The advertisement did not mention any reservation or preference for the OBCs and therefore, the appointment was grossly illegal and malafide.

4. We therefore, set aside the appointment of Respondent No.7 and direct the Respondent No.3, Superintendent of Post Offices, Ballia, to appoint the applicant on the post of Branch Post Master. This order may be complied with within a period of two months from the date of filing of the order. There shall be no order as to costs.

AK
MEMBER(J)

Bawali
MEMBER(A)

p.s.p.