

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD  
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Original Application No. 315 of 1998

Allahabad this the 16th day of July, 2003

HON'BLE MRS MEERA CHHIBBER, MEMBER J  
HON'BLE MR D. R. TIWARI, MEMBER A

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Raj Pati,  
S/o Shri Lalji,  
Vill. Siromanpur,  
P.O. Bharatganj,  
Distt. Allahabad.

.....Applicant.

By Advocate : Shri K.C.Sinha,  
Shri A.Srivastava.

Versus  
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1. Union of India through  
Post Master General,  
Allahabad.
2. Senior Superintendent of  
Post Offices, Allahabad.
- 3.. Sub Divisional Inspector,  
Meja, Distt. Allahabad.
4. Ram Prasad,  
working as Mail Runner,  
Branch Post Office,  
Shukulpur, Bharatganj,  
Allahabad.

.....Respondents.

By Advocate : S/Shri S.K.Anwer &  
H.S. Srivastava,





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

- "(i) this Tribunal may kindly be pleased to quash the appointment order dated 29-4-1997 issued in favour of respondent No. 4.
- (ii) This Tribunal may also direct the respondents to issue an appointment letter in favour of petitioner, considering the facts and circumstances of the case.
- (iii) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case may be given in favour of the petitioner. "

2. Subsequently by way of Amendment Application, applicant also sought quashing of the order dated 10-3-1997 which is annexed by the respondents as Annexure C.A.-I, which was duly allowed by the Court, vide order dated 20-7-1999.

3. The brief facts, as alleged by the applicant, are as follows that the post of EDDA-cum-EDMC, Shukulpur (Bharatganj), Allahabad was vacant w.e.f. 05.12.1996 and the EDBO was opened on 05-12-1996. Accordingly Employment Exchange, Allahabad was addressed vide Sub Divisional Inspector, Meja letter dated 17-1-1997 to sponsor the names of minimum 3 and maximum 5 candidates for selection on the said post. A list of 3 candidates, namely Sushil Kumar Pandey, Rajpati and Ram Prasad, were sponsored by the Employment Exchange. They were asked to send their applications to which two persons gave their applications namely Rajpati, i.e. the applicant & Ram Prasad i.e. the respondent no. 4. The third candidate did not sent his application. According to applicant respondents gave yet another public notice on 10-3- 1997 calling application from public but in this notice they cancelled the applications which were already received by them while these three candidates were sponsored by the Employment Exchange. Not only this,





grievance of the applicant is that his case was not even considered by the respondents for the said post which, according to him, is absolutely wrong, illegal, arbitrary and unsustainable in law. Ultimately respondents selected Respondent no. 4 who was given appointment as Mail Carrier. It is his appointment which has been challenged by the applicant in the present G.A. and he has further sought a direction to the respondents to issue appointment letter to the applicant as he is the best candidate amongst all.

4. Broadly speaking respondents have not disputed the basic facts as referred by the applicant but they have tried to explain as to why they had to cancel the earlier applications given by the respondents which had been sponsored by the Employment Exchange. Since three candidates were not available as per the name sponsored by the Employment Exchange, therefore, they had to issue afresh public notice calling for applications from open market. They have further submitted that in the notice itself they had cancelled the earlier applications received by them and since applicant did not give afresh application, his candidature was not considered. Out of the applications which were received by them they have submitted that respondent no. 4 was the best amongst all and accordingly he was given appointment. They have, thus, submitted that the G.A. may be dismissed as there is no merit in the same.


5. We have heard both the counsel and perused the pleadings as well.

6. It is correct that for filling one post there should have been minimum 3 candidates available with the department, but if they did not have 3 applications with them, it was always open to them to issue a public notice calling for more applications, but there was no justification to cancel the applications already received by them, from those persons who had been sponsored through Employment Exchange, the reason



being that once their names were sponsored by the Employment Exchange, their names would have been struck off from the Employment Exchange Register. Thus, the opportunity of being sponsored again through the Employment Exchange would not be available to them thereafter. Therefore, the condition inserted <sup>in</sup> by the public notice to the effect that the applications already received stand cancelled is neither justified nor sustainable in law. Accordingly the said condition in the public notice is held to be illegal and arbitrary. Accordingly the same is quashed and set aside to that limited clause only. In the instant case, it is not disputed by the respondents that applicant's name was sponsored by the Employment Exchange and he had also given an application. Since respondents had given the public notice to call for more applications from the open market, we find no illegality in issuing the said notice but after receiving the applications from open market they ought to have considered the candidature of applicant as well along with fresh candidates who had given their applications from open market. Since respondents had not considered the applicant at all, it vitiates the selection made by them for the post of EDMC. Accordingly the selection made for the post of EDMC is quashed and set aside.

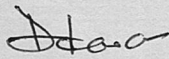
7. The respondents are directed to consider the candidature of respondent no. 4 along with applicant's application and after considering merits of both pass the final orders within a period of 4 months from the date of receipt of a copy of this order. It is, however, made clear that till the time selection process is completed respondent no. 4 should not be disturbed. He should be allowed to continue on the post. If after the selections are over, applicant is found to be better and more meritorious than respondent no. 4, only in that eventuality, should he be replaced by the most meritorious person otherwise he should be allowed to continue to hold the post as if there has been no adverse order against him at all. In other words if respondent no. 4 is found to be more meritorious, than, there would be no break in his service and he should be continued in service without any interruption.



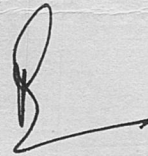


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8. With the above direction, this O.A. is allowed  
with no order as to costs.



Member A



Member J

Erijesh/-