

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 431 of 1998

Allahabad this the 30th day of October, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Maj Gen K.K.Srivastava, Member (A)

Vishwanath Singh Son of Late Shri Sharda Nand Singh,
resident of village and post office Kotwari, District
Ballia.

Applicant

By Advocate Shri Sudhakar Pandey

Versus

1. Union of India through Post Master General,
Gorakhpur/Allahabad.
2. Director of Postal Services, Gorakhpur Mandal,
Gorakhpur.
3. Superintendent of Post Offices, Ballia.
4. Sarvdev Singh Yadav Son of Shri Kamala Singh
Yadav, resident of village and Post Office
Teeka Dauri, District Ballia.

Respondents

By Advocate Shri Amit Sthalekar

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The applicant-Vishwanath Singh was one of
the candidate for the post of Extra Departmental Branch
Post Master(for short E.D.B.P.M.), Kotwari, District
Ballia but he was not selected inspite of his being
best amongst all the candidates and on the top in the
merit ^{whereas} and Shri Sarvdev Singh Yadav-respondent no.4 has

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with lesser merit

been selected, His other grievance is that Shri Sarvdev Singh Yadav does not fulfil the minimum requirement for the post.

2. On behalf of the respondents it is not disputed that as per merit the applicant is a better candidate than the selected one-Sarvdev Singh Yadav, but Shri Sarvdev Singh Yadav has been appointed on being given preference on account of his being from Other Backward Class community.

3. Heard Shri Sudharkar Pandey, counsel for the applicant and Shri Amit Sthalekar, counsel for the respondents.

4. The short controversy involved in the matter is as to whether a candidate from O.B.C. can be preferred against a candidate who has better merit. Learned counsel for the applicant submits that the question of preference will come ~~only~~ when other things are equal and only then a candidate from O.B.C. can be preferred, but he cannot be preferred over a candidate who is having better merit. In reply to this contention Shri Amit Sthalekar referred a Full Bench decision of C.A.T. while deciding the O.A.No.1551 of 1997 M.Satyaseela Reddy Vs. U.O.I. & Others A.T.J.1999(2) page606 wherein it has been held;

"In the light of the discussions aforesaid, our answer to the question referred to the

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S. K. S.

Full Bench is as follows

The condition that preference will be given to ST/SC/OBC would mean that the candidates belonging to ST/SC/OBC even if placed below the names of OCs (i.e. other candidates, or candidates belonging to general category) in the merit list, would be entitled to appointment in preference to OCs, though all the candidates belonging to general category or ST/SC/OBC categories would be entitled to equal consideration for the purpose of selection. If the name of no candidate belonging to ST/SC/OBC finds place in the merit list, or no eligible ST/SC/OBC candidate is available for the post, then only OC candidate may be selected for appointment according to rules."

5. With the above position in view we find that in the present matter Shri Sarvdev Singh Yadav has rightly been preferred against the candidature of applicant-Shri Vishwanath Singh inspite of his being better on merit.

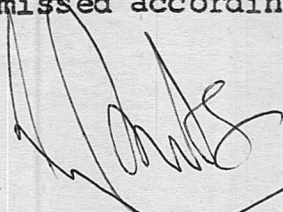
6. Learned counsel for the applicant has another grievance that the selected candidate Shri Sarvdev Singh Yadav does not fulfil the minimum requirement for selection to the post. We find that there is no pleading on this count in the O.A. and and it has been raised at rejoinder stage only. Therefore, we desist to give any verdict on this point, however, it is open for the applicant to represent it before the authority in the department.

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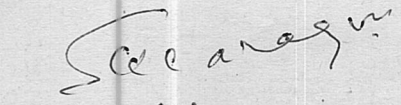
7. As a result, the relief sought for in the O.A. cannot be granted. The O.A. is dismissed

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7. For the above, the relief sought for in the O.A. cannot be granted. The O.A. is dismissed accordingly. No order as to costs.



Member (A)



Member (J)

/M.M./