

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 651 OF 1998

ALLAHABAD, THIS THE 1st DAY OF April, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MR. S. C. CHAUBE, MEMBER (A)

Smt. Kamini Kaushal,
w/o Shri Ashok Babu Village & Post Kartik
District-Firozabad.

.....Applicant

(By Advocate : Shri B. N. Singh)

V E R S U S

1. Union of India through the Secretary,
Department of Post and Telegraph,
New Delhi.
2. Senior Superintendent of Post Offices,
Firozabad.
3. Assistant Superintendent of Post Office,
Firozabad [Subsidiary Division, Firozabad.
4. Smt. Neelam w/o Sri PremVeer,
r/o Village and Post-Kartiki,
District-Firozabad.

.....Respondents

(By Advocate : Km. Sadhna Srivastava)

ORDER

By Hon'ble Mrs. Meera Chhibber, J.M.

By this Original Application Smt. Kamini Kaushal has sought quashing of the order of appointment issued in favour of respondent No.4 and has further sought a direction to the respondents to pay her salary of the post of EDBPM from 26.11.97 till regular appointment is made with all consequential benefits.



2. It is submitted by the applicant that she was appointed on the post of EDBPM, Kartiki Firozabad vide memo dated 09.06.1997 on ad-hoc basis. As Shri Raj Pal Singh a regular EDBPM retired on the said post on 30.06.1997. Many people applied for the post including the applicant but respondents appointed Smt. Neelam i.e. private respondent herein without making any regular appointment and as far as applicant was concerned, she was made to handover the charge of EDBPM to Smt. Neelam on 26.11.1997 without serving termination order on the applicant. It is submitted by the applicant that one ad-hoc employee can not be replaced by another ad-hoc employee and ^{in any case since} she also had experience of having worked on the post of EDBPM whenever Shri Raj Pal Singh was on leave for last 10 years. Therefore, she was entitled to be appointed but without following due process of regular appointment, Smt. Neelam has been appointed, which is absolutely wrong arbitrary and unsustainable in law.

3. By way of amendment she further submitted that Smt. Neelam Kumari had never passed High School examination, therefore, the marksheet and certificate submitted by her is fake and forged. Moreover, she did not have any place for running post office nor she had any immovable property in her name, therefore, the certificate produced by her is also false and fabricated. She also submitted that respondents have not assigned proper marks for educational qualification, character, monthly income, accommodation for post office, immovable property etc. Therefore, her appointment is bad in law and the relief as prayed for may be granted in favour of the applicant.

4. Respondents have opposed this O.A. by submitting that Smt. Kamini Kaushal (applicant) was engaged as EDBPM purely on



temporary basis on the risk and responsibility of Shri Shankar Lal Sub Post Master, Kotla (Annexure CA-2). Therefore, this is not correct that she was appointed by the respondents. After Shri Raj Pal Singh, Branch Post Master Katiki (Tundla) district-Firozabad was retired on 30.06.1997, process for selection on the above said post was initiated and Employment Exchange was requested to sponsor the names of suitable candidates. Applications were received from 5 candidates including that of Smt. Kamini Kaushal and Smt. Neelam Kumari, which were duly considered and since Smt. Neelam was found most suitable candidate, she was appointed on regular basis after observing all the formalities (Annexure CA-3). They have further explained that applicant had proceeded on leave by handing over the charge to Shri Jagat Pal Singh willingly who later on handed over the charge to the regular appointee appointed on 07.01.1998. The leave application and charge report dated 24.11.1997 ^{are} annexed (Annexure CA-4). They have, thus, submitted that there is no illegality in the appointment of respondent No.4 nor applicant can claim appointment on the basis of her experience alone as the main criteria for selection is merit in the High School. They have also submitted that respondent No.4 was also possessing land for extra source of income and made available the place for post office as well. Therefore, there is no merit in the C.A. the same may therefore be dismissed.

5. We have heard both the counsel and perused the pleadings as well as the original record produced by the respondents.

6. It is seen after the vacancy had become available, respondents had notified the vacancy pursuant to which applications were received from 5 candidates including applicant as well as Smt. Neelam Kumar. The selection proceedings show that applicant had received only 54% in the 10th Class while



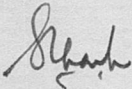
Smt. Neelam Kumari had obtained 55.2% in the 10th Class. Perusal of the proceedings also shows that Smt. Neelam Kumari had obtained the highest marks in the 10th Class, accordingly she is definitely most meritorious. As far as the educational qualification is concerned, perusal of the record further shows that Smt. Neelam's certificate were got verified from the Principal of Shri R.R. Inter College Bachgaon, Firozabad, who had verified that Smt. Neelam Kumari had passed from their college with the marks as stated above. Respondents had also got report from the office of District Magistrate Firozabad to the effect that Smt. Neelam Kumari does have land and also income of Rs.20,000/- per year from the Business of Milk. It is, thus, clear that a regular selection was made after the incumbent had retired from the post of Branch Post Master Kartiki and regular selection was done as prescribed under Rules wherein Smt. Neelam Kumari was found to be most meritorious. Accordingly, she was given the appointment on a regular post and not by way of ad-hoc appointment as alleged by the applicant. Therefore, applicant's case is totally misconceived.


7. Moreover, perusal of Annexure CA-2 shows that applicant was engaged as Branch Post Master Kartiki only on the risk and responsibility of Sub Post Master Shri Shanker Lal and not by the department. Therefore, she has no right in law to claim that she should be appointed as EDBPM Kartiki. Similarly since Smt. Neelam Kumari has been appointed on regular basis after due selection, the basic contention of applicant that one ad-hoc employee cannot be replaced by another ad-hoc employee falls flat on the face and is not at all sustainable. Since Smt. Neelam Kumari was not only the most meritorious but she also fulfilled the other requirements as well, therefore, her appointment is absolutely valid and calls for no interference. It has already been decided by the Hon. Supreme Court that no weightage



// 5 //

experience can be given in the matter of appointment of EDBPM,
therefore, applicant has not been able to make out a case for
interference. The O.A. is therefore dismissed being devoid of ^{merit.} /
No order as to costs.


Member (A)


Member (J)

shukla/-