

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of June, 2001.

Original Application No. 685 of 1998.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Naqli Ram S/o Om Prakash,

R/o Village & Post-Shahpur Shitla Khera

(Laskar), District Hardwar.

(Sri B. Ram, Advocate)

..... .Applicant

Versus

1. Union of India through Secretary,

Ministry of Communication, Department of Post,

Dak Bhawan, Sansad Marg, New Delhi.

2. Senior Superintendent of Post Offices,

Saharanpur, District-Saharanpur.

3. Assistant Superintendent of Posts,

Sub Division, Hardwar.

(Km. Sadhna Srivastava, Advocate)

..... .Respondents

O R D E R (o_r_a_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this application, the applicant has challenged the orders dated 10-6-1997 and 04-3-1998 (Annexures-A-1 and A-2 to the OA) by which the Employment Exchange, Saharanpur has been asked to forward names for appointment as EDBPM Post Office Shahpur Shitla Khera(Laskar), Hardwar. The contention of the applicant is that he was serving in the Department as Extra Departmental Mail Peón w.e.f. 10-8-1979. On death of Extra Departmental Branch Post Master, Shahpur Shitla Khera, the applicant was appointed



as Extra Departmental Branch Post Master on 03-6-1996. The order of appointment has been filed as Annexure-A-3 to the OA. It is further claimed that by the order dated 03-5-1997 the applicant was given regular appointment, a copy of which has been filed as Annexure-A-5 to the OA. Counsel for the applicant has submitted that as the applicant was already serving as EDMP he was entitled to be appointed as EDBPM under Rule 20 of the EDA(C&S) Rules, 1964. It has also been submitted that the applicant has been regularly appointed by the subsequent order dated 03-5-1997, there was no question of any vacancy and requisition from the Employment Exchange is without authority and, therefore, is liable to be quashed. Learned counsel for the applicant has placed reliance on the judgement of this Tribunal dated 23-12-1996 in OA No.347/95 - Satish Chandra Srivastava Vs. UOI & Ors.

2. Km. Sadhna Srivastava, learned counsel for the respondents on the other hand submitted that the applicant was given a chance to work as substitute on death of regular EDBPM Sri Suraj Bhan. Regarding appointment order dated 03-5-1997 (Annexure-A-5 to the OA) it is submitted that on enquiry it was found to be a forged and bogus letter and was never issued by the Department. It has also been submitted that the applicant lacks necessary qualification as he has not passed High School and only relied on Prathama Certificate, which is not equivalent to High School. Learned counsel for the respondents has placed reliance on a notification dated 04-8-1995 issued by the Government of India.

3. We have carefully considered the submissions made by the counsel for the parties. In our opinion, since the applicant has already served the department as ED Mail Peon, for a long time, he is entitled for the benefit



of Rule 20 provided he is qualified for the post of EDBPM. Rule 20 reads as under :-

"When an ED post falls vacant ⁱⁿ the same office or in any office in the same place and if one of the existing EDAs prefers to work against the post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange, provided he is suitable for the other post and fulfils all the required conditions".

4. However, rest of the question whether the applicant possesses necessary qualifications or not, they are to be considered by the appointing authority in the light of the Government Notifications issued from time to time and in that situation both sides shall be free to place their point of views before the competent authority.

5. For the reasons stated above, we dispose of this OA with the direction to the respondent no.2 to consider the claim of the applicant for appointment as EDBPM in the light of Rule 20, and only in case the applicant is not found entitled for appointment, then he will only proceed to hold selection ^{from any} ~~in accordance~~ with names forwarded by the Employment Exchange. The OA is disposed of accordingly with no order as to costs.

Member (A)

Vice Chairman

Dube/