

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 690 OF 1998

WEDNESDAY THIS THE 20TH DAY OF NOVEMBER, 2002

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

HON. MAJ GEN K.K.SRIVASTAVA, MEMBER-A

Smt. Gita Devi

w/o Shri Daya Shankar

r/o Village and Post Maniyarpur,

Dist:- Chandauli. ....Applicant.

(By Advocate:-Shri Anand Kumar)

Versus

1. Union of India, through Chief Post Master  
General Lucknow.

2. Post Master General, Allahabad.

3. Shri Ram Samuj Singh,  
Senior Superintendent of Post Offices,  
East Division Varanasi.

4. Sh. Chotey Lal Tewari  
s/o Sh. Balwant  
Tewari, r/o of village and Post

Maniyarpur Dist:- Chandauli presently  
posted as EDDA at Branch Post Office,  
Maniyarpur,

Dist:- Chandauli. ....Respondents.

(By Advocate:- Shri S.C.Tripathi)

O R D E R

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

By this O.A under section 19 of Administrative  
Tribunals Act, 1985, applicant has challenged the  
appointment of respondent No. 4 as EDBPM by order  
dated 24-6-1998.

2. The facts of the case are that the post of EDBPM which was likely to fall vacant on 31.07.1998 on retirement of Shri Ram Briksh Tewari EDBPM. A requisition was sent to Employment Exchange for sponsoring suitable names on 19.01.98. Employment Exchange forwarded three names including the name of applicant. Respondent No.4 was working in the same Branch as ED Delivery Agent since 1981. He also applied for appointment as EDBPM. The selection proceedings took place. The list was prepared and respondent No.4 was appointed as EDBPM, considering the facts that he served in the same post office for 18 years as ED Delivery Agent.

3. Shri Anand Kumar, learned counsel for the applicant has submitted that from a perusal of Annexure CA-2, it is clear that respondent No.4 secured only 40.18% marks in High School, whereas the applicant's performance was better than him as he secured 45.5% marks and appointment of respondent No.4 is illegal and arbitrary.

4. The counsel for the respondents on the other hand submitted that respondent No.4 has been given appointment as he was already serving in the same post office as ED Delivery Agent for last 18 years. The rules providing that if there is any ED Agent working in the same office and he prefers to work against the post he may be appointed. Thus, the respondent No.4 was the preferential candidate and he was rightly selected for appointment. The order does not suffer from any error of law.

5. We have carefully considered the submissions of the counsel for the parties.

6. The exception has been provided by DG Post Communication No.43/27/85- pensions (EDC & TRG) dated 12.09.1988 which 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 EDA's prefers to work against that 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 fulfills all the required conditions."

7. From a perusal of the aforesaid rules, it is clear that if the existing EDA prefers to work it has to be examined whether he is suitable for the post and fulfills required conditions. In the present case it is not the case of the applicant that respondent No.4 ~~was not suitable and he~~ does not fulfil the required conditions for appointment. The only claim is that his merit was lower than the applicant. However, as the rule exist, the respondent No.4 was entitled for appointment and in fact, his claim should have been examined first before calling for the names from the Employment Exchange. That if the respondent No.4 ~~had~~ <sup>under the above rule</sup> the right to be appointed, this will not be affected merely by the fact ~~his name was included along with~~ <sup>that</sup> ~~of candidates sponsored by~~ <sup>the</sup> ~~names~~ <sup>of</sup> the Employment Exchange for selection. We do not find any error in the appointment of respondent No.4. This O.A. has no merit and accordingly dismissed with no order as to costs.

  
MEMBER-A

  
VICE-CHAIRMAN

Madhu/-