

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 784 of 1998

Allahabad this the 03rd day of August, 2001

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

Manoj Kumar Srivastava, aged about 25 years,  
S/o Shri Ashok Kumar Srivastava, R/o Village  
& Post Mohammadpur Gauti, Tehsil-Khaga, Dist-  
rict Fatehpur.

Applicant

By Advocate Shri S.C. Kushwaha

Versus

1. Union of India through the Secretary, Ministry of Communication, New Delhi.
2. The Superintendent of Post Offices, Fatehpur Division, Fatehpur.
3. Shri Rahmat Ali, aged about 328 Years, S/o Shri Mohd. Ali, R/o Village & Post Mohammadpur, Gauti, Tehsil Khaga, District Fatehpur.

By Advocates Shri S.C. Tripathi (for official respondents)  
Shri M.K. Upadhyay (for respondent no.3)

O\_R\_D\_E\_R ( Oral )

By Hon'ble Maj Gen K.K. Srivastava, Member (A)

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the Notification dated 30.03.1998 for filling the post of Extra .... pg.2/-

Departmental Sub Post Master (for short E.D.S.P.M.)  
Post Office Mohammadpur Gauti, District Fatehpur  
through which the respondent no.3 has been selected  
and appointed as E.D.S.P.M.

2. The facts in brief are that first notification for filling the post of E.D.S.P.M., Mohammadpur Gauti was of the year 1995, which was cancelled subsequently by respondent no.2, as it was erroneous notification for which there is no controversy at all. In order to fill up the vacancy, a second notification was issued on 22.01.1998 and the names were called for from Employment Exchange. Four names including that of the applicant were sponsored from the Employment Exchange, but this notification was also cancelled as it was declared 'reserved for O.C.' erroneously. Another notification was issued on 30.03.1998. The Employment Exchange forwarded the names of five candidates including that of the applicant-M.K. Srivastava and respondent no.3-Rahmat Ali. By this selection process, Shri Rahmat Ali-respondent no.3 was selected. Now the applicant has challenged the selection of respondent no.3, as according to him he should have been selected as a result of notification dated 22.01.1998.

3. The respondents have contested the case and counter-replies filed by the official respondents as well as by the private respondent no.3.

4. Heard Shri S.C. Kushwaha, counsel for the applicant, Shri S.C. Tripathi, counsel for the official respondents and Shri M.K. Upadhyay, counsel for the private respondent no.3. Perused the record.

5. Shri Kushwaha, learned counsel for the applicant submitted that the selection of March, 1998 has been manipulated to accommodate the respondent no.3-Shri Rahmat Ali. According to him there was telephonic agreement between the appointing authority and the respondent no.3. This can be proved as the name of respondent no.3 was in Employment Exchange on 05.02.1998. Not only this, even the transfer of the property in his name has been effected only in February, 1998. He further submitted that there was no reason to cancel the selection process initiated as a result of second notification dated 22.01.1998.

6. Shri S.C. Tripathi, counsel for the official respondents and Shri M.K. Upadhyay, learned counsel for the respondent no.3 have assailed these points. Shri S.C. Tripathi pointed out that the notification dated 22.01.1998 had to be cancelled keeping in view the fact that the post was declared as reserved for O.C., thereby meaning that nobody else can be selected except a candidate of O.C., which is incorrect and illegal in the eyes of law. It has also been submitted that the applicant is not a permanent resident of Mohammadpur Gauti. He is resident of Pratapgarh, which was already certified by the District Magistrate, Fatehpur. He is

simply staying with his uncle in Fatehpur, does not confer <sup>upon</sup> him any right to be treated as the resident of Mohammadpur Gauti, District Fatehpur.

*in which he*

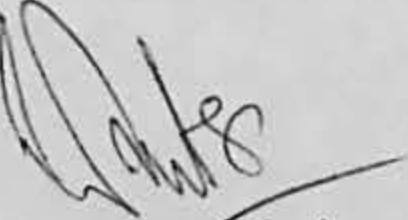
7. We have carefully considered the submissions of counsel for the parties. As regards the first notification of 1995 ~~is concerned~~, learned counsel for the parties have already agreed that there is no controversy. Perusal of notification dated 22nd January, 1998, placed as annexure 1-C of counter.reply, shows that the post has been shown as reserved for O.C. which amounts that the candidates of other communities had no right to apply for it. This condition clearly is in contravention to the provision of Constitution whereby every community has given equal right. We are convinced <sup>in that</sup> <sup>been</sup> <sup>in</sup> the action of respondent no.2 in cancelling the notification dated 22.1.98 and <sup>is correct and legal</sup> <sup>found that</sup> <sup>in</sup> <sup>one of the view that</sup> <sup>in</sup> no discrimination had been done.

8. We would like to discuss about the selection process adopted in respect of the candidates whose names were sponsored by the Employment Exchange during March 1998. The respondents have produced the comparative chart of all the candidates including Shri Manoj Kumar Srivastava and Shri Rahmat Ali, which is placed as annexure-A-6. We find that Shri Rahmat Ali-respondent no.3 is the best candidate as compared to the other candidates on the basis of his marks obtained in the High School Examination. There is no doubt in our mind that the applicant Shri M.K. Srivastava is not a permanent resident of Mohammadpur Gauti, Fatehpur. We have no reason to disbelieve the certificate given

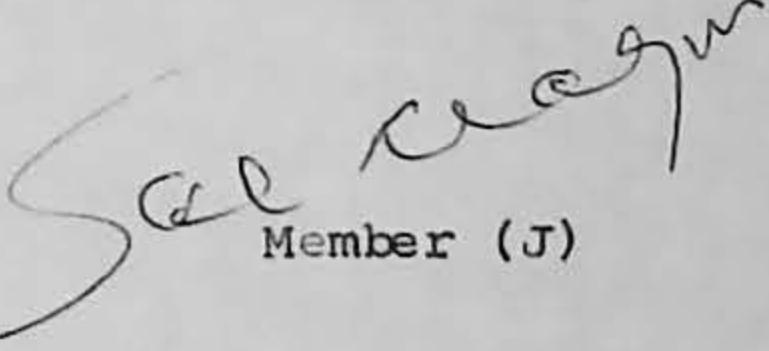
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by District Magistrate, Fatehpur. District Magistrate, Fatehpur has clearly mentioned that the applicant is resident of Takkarganj, District Pratapgarh and also that he does not own any house in Mohammadpur Gauti, District Fatehpur. We do not find any illegality in the selection process and we are of the view that the selection of Shri Rahmat Ali-respondent no.3 is purely on merit.

9. From the facts and circumstances stated above, we have no reason to interfere in the selection process held in March, 1998. The O.A. is devoid of merit and is dismissed accordingly. No order as to costs.

  
Member (A)

|M.M.|

  
Member (J)