

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

....

Original Application No. 1062 of 1998.

this the 28th day of May 2001.

HON'BLE MR. S. DAYAL, MEMBER (A)
HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Smt. Rita Devi, alias Smt. Rita Pathak, W/o Sri Pramod Kumar Pathak, R/o Village & Post Narainpur (Chaubepur), District Varanasi.

Applicant.

By Advocate : Sri Anand Kumar.

Versus.

Union of India through Chief Post Master General, Lucknow.

2. Post Master General, Allahabad.

3. Sri Ram Samujh Singh, Senior Supdt. of Post Offices, East Division, Varanasi.

4. Sri Raj Kumar S/o Sri Nirahu, R/o Village & Post Narainpur (Chaubepur), District Varanasi.

Respondents.

By Advocate : Sri P. Srivastava for Sri S. Chaturvedi
and R.P. Singh.

O R D E R (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed for setting-aside the impugned order of appointment dated 22.9.98 of respondent no.4. A direction is also sought to the respondents to appoint the applicant on the post of Branch Post Master, Narainpur (Chaubepur) as she was the best candidate.

2. The case of the applicant is that the respondents sought the names of eligible candidates from the Employment Exchange, Varanasi for the post of EDBPM, Narainpur. Five names were sponsored by the Employment Exchange, Varanasi including the names of the applicant as well as the respondent

no.4. The applicant claims that she was working on the post of EDBPM, Narainpur since 31.3.1998 and the names of the eligible candidates were requisitioned on 24.4.1998. The applicant claims to be the best candidate as her percentage of marks in the High School was the highest and as the respondent no.4, who was selected and offered appointment did not have any income certificate, nor possessed any source of income. He also did not have any immovable property. It is stated that the respondent no.4 had lowest percentage of marks in the High School examination.

3. We have heard the arguments of Sri Anand Kumar, learned counsel for the applicant. Sri P. Srivastava proxy counsel for Sri S. Chaturvedi for official respondents and Sri R.P. Singh, learned counsel for the private respondent.

4. The learned counsel for the applicant has stressed the merit of the applicant as having secured highest percentage of marks in the High School examination and lack of qualification on the part of the respondent no.4.

5. The Counter reply filed by the official respondents as well as private respondent, however, show that the respondent no.4 had income, which was certified by Tehsildar, Sadar, Varanasi, as Rs. 1000/-. He also had immovable property as would be evident by Annexure-3 to the Counter reply of the private respondent.

6. The system of reserving a specific post for appointment to EDA came into being on 2.7.1998 (Annexure C-4 of private respondent). The appointment in case before us was made on 22.9.98. However, the requisition for the post, in question, was sent to Employment Exchange on 27.3.98 in which it was mentioned that since the reservation for SC/ST had been un-fulfilled in the division, therefore, the names of the candidates belonging to SC/ST should also be forwarded.

The post was said to be of other category. It appears that

the provisions relating to selection of candidates as prevalent before 2.7.98 were applied to this case because the ^{a later} requisition was ~~of~~ date of issuance of instructions regarding reservation of post.

7. The learned counsel for the private respondent has relied on Full Bench decision in the case of M. Satyaseela Reddy Vs. Union of India & Others (1999 A.T.J. VOL. 28 606) in which the issue considered was whether the condition that preference will be given to ST/SC/OBC would mean the candidates belonging to ST/SC/OBC even though they possess less merit than O.Cs; are to be considered and selected and if any of the candidates in the category of ST/SC/OBC are not selected then only the O.C candidates will be considered and selected in accordance with the Rules?" The answer given to this issue was as re-produced below :

"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 O.Cs (i.e. other candidates, or candidates belong 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 candidates is available for the post, then only OC candidate may be selected for appointment according to Rules."

8. We find that the respondent no.4 fulfilled the essential conditions regarding having passed High School and having source of income as well as landed property and, therefore, ^{was} _{given} entitled to be preference in terms of judgment of Full Bench of C.A.T. We, therefore, find no merit in the application and the same is dismissed. The parties shall bear their own costs.

Rajredda
MEMBER (J)
GIRISH/-

Shan
MEMBER (A)