

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1339 OF 1998
ALLAHABAD THIS THE 29TH DAY OF OCTOBER,2003

HON'BLE MAJ GEN K. K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Amod Kumar Tripathi,
son of Sri Raja Ram Tripathi,
resident of Village & Post - Narainpur Sahar,
District - Etawah.

.....Applicant

(By Advocate Sri Rajesh Srivastava)

Versus

1. Union of India,
through Secretary,
Ministry of Post,
New Delhi.
2. Superintendent,
Department of Post,
Divisional Office,
Etawah (U.P.).
3. Post Master General ,
Agra Region,
Agra.
4. Jitendra Kumar,
son of Prem Narain,
resident of Village & Post-Narainpur Sahar,
District - Etawah.

.....Respondents

(By Advocate Km. S. Srivastava)
Shri S.C. Mishra)

ORDER

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

In this O.A. filed under section 19 of Administrative
Tribunals Act 1985, the applicant has challenged the

appointment of respondent no.4 as E.D.B.P.M., Narainpur Sahar, Etawah, and has prayed for cancelling the appointment of respondent no.4 Shri Jitendra Kumar as E.D.B.P.M., Narainpur with direction to the respondents to consider the name of the applicant for the appointment on the said post.

2. The facts of the case, in brief, are that the regular incumbent was to retire on 04.08.1997. The process of selection was initiated and a requisition was sent on 06.03.1997. The applicant's name was forwarded by the Employment Exchange for selection on the post of E.D.B.P.M. Instead of making the selection the respondents under political pressure subsequently included the name of respondent no.4 and selected him, inspite of the fact that initially the name of the applicant was not forwarded by Employment Exchange to the respondents. Hence this O.A. which has been contested by the respondents by filing counter affidavit.

3. Learned counsel for the applicant Shri R. Srivastava, raised basically two issues that the name of the respondent no.4 was included in the list subsequently under political pressure and if the name of respondent no.4 was not there, the applicant was the most merited candidate and he should have been appointed on the post. The second point raised by the learned counsel for the applicant is that the applicant did not have the landed property on the day his name was included. When he could be in Khatamik in 1997 he is by 30.4.1997. He has filed a copy of the ~~ketani~~ ^{Khatamik}, from perusal of which it is clear that the land in question was transferred in the name of respondent no.4 on the basis of will. All these has been done in collusion with the respondents to deny the legal right of the applicant for appointment on the post of EDBPM.

4. Km. S. Srivastava, learned counsel for the respondents resisting the claim of the applicant, submitted that the name of respondent no.4 was forwarded by the Employment Exchange on 05.04.1997 itself (annexure CA-1). The last date for submission of form was 30.04.1997. Since the name of respondent no.4 was not forwarded in the earlier list, the respondents did not take any action. Aggrieved by this as stated by the respondents in para 7 of the counter affidavit, the respondent no.4 approached this Tribunal. The respondents took the opinion of DGC (Civil Etawah) and advised that the case of the applicant should be considered rather than contesting the O.A. before Central Administrative Tribunal. At this juncture the learned counsel for the applicant pointed out that no number of the O.A. has been mentioned in the counter affidavit. Therefore, the correctness of the statement does raise the doubt. We are not inclined to accept this contention of the learned counsel for the applicant because the statement has been given under affidavit and from perusal of records there is no scope of any doubt.

5. Learned counsel for the respondents also submitted that it is not correct that the applicant did not have any landed property till the last date of submission of form which was 30.04.1997. The respondents have filed suppl. affidavit annexing the letter of District Magistrate Orai dated 08.03.1998 (Annexure SA-1). The name of the respondent no.4, ^{has been mentioned at Ser 3 and he} acquired 0.17 decimal land on 09.04.1997.

6. Learned counsel for the respondents further submitted that respondent no.4 was the most merited candidate and, therefore, he was selected. No illegality/irregularity has been committed in the selection.

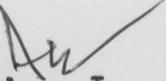
7. We have heard counsel for the parties considered their submissions and perused records.

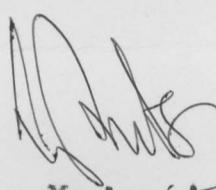
8. Perusal of record leaves no doubt in our mind that the District Employment Exchange of Etawah forwarded the name of the applicant on 05.04.1997 clearly mentioning that the name of respondent no.4 was not forwarded in the earlier list due to oversight. In the said letter it is also mentioned that the registration of respondent no.4 is 8123/95 while that of the applicant is 8183/95. Therefore, this fact leaves no doubt that the name of respondent no.4 had to be sent in the earlier list which was sent on 03.04.1997. No illegality has been committed by the Employment Exchange by sending the name two days thereafter by letter dated 05.04.1997 (Annexure CA-1). Perusal of Annexure SA-1 to the Suppl. affidavit filed by the respondents establishes that respondent no.4 had the land. We have perused the comparative Chart filed as Annexure CA-3 to the counter affidavit. The respondent no.4 has secured 61.4% marks in the High School whereas the applicant secured only 57.8%. Therefore, we do not find any illegality on the part of respondents in selecting respondent no.4 as E.D.B.P.M., Narainpur. The applicant being lower in merit cannot claim right over the respondent no.4. In the comparative Chart submitted as Annexure CA-3 the respondents have clearly mentioned the date of receipt of application of respondent no.4 as 11.06.1997. The contention of the applicant's counsel that the application of respondent no.4 had to be received by 30.04.1997 is nullified by the fact that the case of respondent no.4 was considered on the legal advice of DGC (Civil Etawah). Since the name of respondent no.4 had been sponsored on 05.04.1997 he was eligible for being considered for the post of E.D.B.P.M., Narainpur and, therefore, we do not find any illegality committed by the respondents in considering the

name of ~~the~~ respondent no.4. We do not find any good ground for interference.

9. In the facts and circumstances and our aforesaid discussions the O.A. is dismissed being bereft of merit.

10. There shall be no order as to costs.


Member-J


Member-A

/Neelam/