

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.**

ORIGINAL APPLICATION NO. 240 OF 2001.

Allahabad this the 13<sup>th</sup> day of October, 2006.

**Hon'ble Mr. Justice Khem Karan, V.C.**

Mohd. Tasir, S/o late Mohd. Kamil, R/o Village and Post  
Office- Para, District Ghazipur.

.....Applicant.

(By Advocate: Sri Pramod Kumar Sinha)

Versus.

1. Union of India through its Secretary, Ministry of  
Post & Telegraph, New Delhi.
2. Chief Post Master General, Uttar Pradesh  
Parimandal, Lucknow-226001.
3. Superintendent of Post Offices, Ghazipur.
4. Sub-Divisional Inspector, Post Office Mohamdabad,  
Ghazipur.
5. Sub-District Inspector of Schools, Ghazipur.

.....Respondents.

(By Advocate: Sri Saumitra Singh)

**ORDER**

Applicant prays that order dated 12.10.1999 (Annexure  
14) passed by respondent NO.2 by which his claim for  
compassionate appointment was rejected, be quashed with a  
direction to appoint the applicant on the post of Extra  
Departmental Delivery Agent (in short E.D.D.A) with all  
facilities as may be admissible to him.



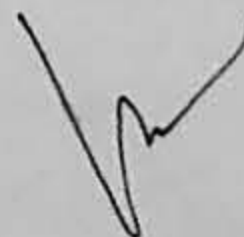
2. There is no dispute that two of the elder brothers of the applicant were already in employment, on the date, his mother moved application for compassionate appointment of the applicant, under dying in harness rules. Admittedly, the applicant's father died in harness while working as E.D.D.A. The applicant claims to have passed class 8<sup>th</sup> from Rama Shanker Vidyalaya Pithapur Mishraulia Ghazipur, in the year 1980-81 and according to him this Vidyalaya was recognized one, at that time. When the respondents did not appoint him on compassionate grounds, he filed one O.A. No.1036/98 which this Tribunal decided vide its order dated 1.5.1998 (Annexure 10). The Tribunal concluded that employment of his elder brothers did not come in his way as both of them were living separately and he had passed class 8<sup>th</sup> from the said Vidyalaya, which was a recognized one. So the directions were issued for considering his case accordingly. The respondents of that O.A. challenged this order of Tribunal before the Hon'ble High Court by filing Civil Misc. Writ Petition NO.26685 of 1998 which the Hon'ble Court disposed of vide order dated 16.7.99 (Annexure No.11). It would be relevant to reproduce the relevant portion of that order:-

*"The Tribunal only directed the Union of India to consider the candidature of the respondent in respect of E.D.D.A on the basis of Dying in Harness Rules within three months and if the authorities have any doubt, they can get that matter verified and then decide the application preferred by the petitioner (Mohd. Tasir) for his compassionate appointment.*

*The Tribunal has recorded the finding of fact and this Court in exercise of its powers under Article 226 of the Constitution of India cannot appraise the evidence. The writ petition is devoid of merit, it is accordingly dismissed.*

*However, it is provided that if the department still have any doubt regarding the genuineness of the education qualification of the respondent, the same may be verified from the record of the school and pass an order within a period of three months from the date of this order".*

3. After these orders of Hon'ble High Court, impugned order dated 12.10.1999 (Annexure 14) was passed for and on behalf of Chief Post Master General, Lucknow Region, Lucknow. By this order, the Authority concerned informed the applicant that certificate about his having passed ~~in~~ class 8<sup>th</sup>, was found to be forged and bogus on enquiry and two of his family members were already in employment so his case for compassionate appointment had been rejected. Aggrieved of it, he filed Civil Misc. Writ Petition NO.52797/99 before the Hon'ble High Court at Allahabad wherein interim orders were passed for issuing the appointment letter but instead of issuing the appointment letter, the respondents filed counter-affidavit contesting the claim. This writ petition was ultimately dismissed on 11.1.2001 on the ground of alternative remedy available under the Administrative Tribunal Act 1985. Thereafter, the applicant filed the present O.A. The main grounds taken in this O.A. are that after the findings recorded by this Tribunal in its order dated 1.5.1998 (Annexure 10) on the point of educational qualification and on the point of eligibility of the applicant for getting such employment and after dismissal of the writ petition filed by the respondents against the said order, it was not open to the respondents to have rejected the claim of the applicant for compassionate appointment almost on the same grounds which had earlier been negatived by this Tribunal. The applicant says that there was ample proof on record that Rama Shanker Vidyalaya Pithapur Mishraulia Ghazipur was a recognised institution in the year 1980-1981 when the applicant passed class 8<sup>th</sup> from there and transfer certificate issued by that Vidyalaya was duly countersigned by the Competent Educational Authority so the respondents were not right in saying that proof of educational certificate was forged or fabricated. It is said that when this Tribunal concluded in its order of 1999, that employment of elder brothers, did not come in




way of the applicant, in getting the compassionate appointment, it was not open to the respondents to reject his claim on that ground. According to him, the respondents have committed contempt of the Court by passing the impugned order.

4. The respondents have contested the claim by saying that when the Hon'ble High Court itself left it open to the respondents to ascertain about the educational qualification of the applicant, it cannot be said that the question relating to educational qualification of the applicant stood finally decided in the earlier O.A. They say that the Basic Shiksha Adhikari, Ghazipur has informed the Department in writing through his letter dated 16.9.1999 that there was no such recognized school as Rama Shanker Vidyalaya Pithapur Mishraulia Ghazipur. They say that according to this information from Basic Shiksha Adhikari, Ghazipur, the applicant had not passed class 8<sup>th</sup> from any recognized institution, so his claim for appointment on the post of E.D.D.A was rightly rejected. It has clearly been stated in para 19 of the reply that marksheet of junior High School Examination for the year 1981 issued by Rama Shanker Vidyalaya Pithapur Mishraulia, Ghazipur was found to be bogus on enquiry and so was the Transfer certificate issued by said Vidyalaya. The applicant has filed rejoinder affidavit reiterating the same pleas which has already been taken in the O.A.

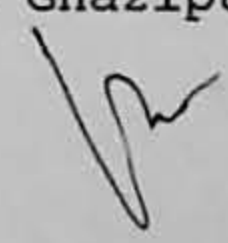
5. I have heard Sri P.K. Sinha, the learned counsel for the applicant and Sri S. Singh, the learned counsel for the respondents.

6. Sri P.K. Sinha, learned counsel for the applicant has submitted that after this Tribunal concluded in its order dated 1.5.1998 (Annexure 10) that applicant had passed class 8<sup>th</sup> from a recognized institution, it was not open to the respondents to sit in appeal over the same by making



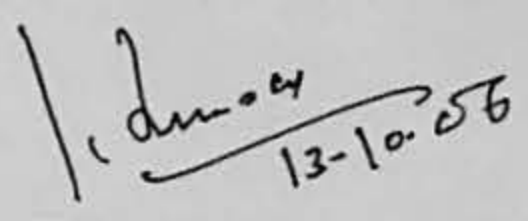
an enquiry as regards the same. Learned counsel for the applicant has taken me through the order dated 1.5.1998 so as to convince that it was not open to the respondents to have rejected the claim of the applicant on the ground that educational certificate filed by him was bogus or forged. This argument of Sri P.K. Sinha does not convince me. The reason is that this part of Tribunal's order stood modified by last portion of Hon'ble High Court order dated 16.7.1999 passed in writ petition NO. 26685/98. The Hon'ble High Court gave a liberty to the respondents that if the department has any doubt regarding the *genuineness* of the educational qualification of the applicant, the same may be verified from the record of school and pass order within a period of three months from the date of this order. In other words, whatever was said by the Tribunal in its order dated 1.5.1998 as regards the educational qualification or as regards the *genuineness* of the proof of that educational qualification, stood superseded by this portion of the order of the Hon'ble High Court. Therefore, the respondents committed no error by enquiring into the *genuineness* of proof of educational qualification of the applicant.

7. Sri P.K. Sinha learned counsel for the applicant has stated that as per the information given by Principal of Rama Shanker Vidyalaya Pithapur Mishraulia Ghazipur (Annexure 9), the Vidyalaya remained recognized from July 1980 to 30<sup>th</sup> June 1984 and applicant passed class 8<sup>th</sup> from that school in the year 1980-1981 and so from that point of view the respondents cannot say that the applicant did not pass the junior High School from a recognized institution. Sri Saumitra Singh counsel for the respondents has shown to me a letter dated 16.9.99 issued by Zila Basic Sikcha Adhikari to Up Mandaliya Nerikshak (Tar) of District Ghazipur that during the period from 1.7.1966 to 1.7.1991, no such Vidyalaya as named Rama Shanker Vidyalaya Pithapur Mishraulia Ghazipur found place



in the list of private unaided recognized schools. Shri Singh says that this information given by Basic Siksha Adhikari in the year 1999 has been taken into consideration for coming to the conclusion that the applicant had not passed junior High School from a recognized institution.

8. This Tribunal is not sitting in appeal over such administrative decision as Annexure-14. The power of this Tribunal to examine the validity of such orders does not extend to reassessing or revaluating the material on which such decision is based. The conclusion of the Authority that certificate filed by the applicant is not *genuine*, is based on material and there appear no good grounds to interfere with the same in exercise of power of judicial review. No doubt, the respondents could not have taken the ground of employment of applicant's brother for rejecting his claim but they were perfectly justified in examining the *genuineness* of proof of his having passed class 8<sup>th</sup> which was the minimum qualification for appointment on the post of E.D.D.A. The O.A. deserves to be dismissed and it is accordingly dismissed but with no order as to costs.

  
13-10-26  
**Vice-Chairman**

Manish/-