

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 27th day of May, 2002.

CORAM:-

Hon'ble Maj Gen KK Srivastava, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

I. Original Application No. 292 of 2001.

Ashok Kumar Chaudhary Son of Sri Parashuram Chaudhary,
Resident of Village Mathiyaon Kal, Post Thokwa
District Basti.

(Sri B.C. Naik, Advocate)

.....Applicant

Versus

1. Union of India through its Secretary, Ministry of Post & Telegraph, New Delhi.
2. The Post Master General, Gorakhpur.
3. The Superintendent of Post Offices, Basti Division, Basti.

(Sri R.C. Joshi, Advocate)

AND Respondents

II. Original Application No. 1606 OF 2001.

Amresh Prasad Pandey,
Son of Sri Sarva Deo Pandey,
Resident of Village and Post
Thokwa, District Basti.

(Sri A.K. Yadav, Advocate)

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Versus

1. Union of India through the Secretary, Ministry of Communication Department, New Delhi.
2. The Post Master General, Gorakhpur

3. The Superintendent of Post Offices,
Basti Division, Basti.

4. Ashok Kumar Chaudhary, Son of
Parshuram Chaudhary,
Resident of Village Nathiyaon Kalan,
Post Thokwa, Distt-Basti.

(Sri R.C. Joshi, Advocate)

..... Respondents

O R D E R (O_r_a_1)

By Hon'ble Maj Gen KK Srivastava, A.M.-

As question of facts and law involved in both the OAs are similar, these OAs are being disposed of by a common order.

2. OA No.292/01. In OA No.292/01 filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the impugned termination order dated 23-2-2000 (Annexure-A-1), passed by respondent no.3 be quashed and the respondents be directed to continue the applicant in service as Extra Departmental Branch Post Master(in short EDBPM) and pay him salary as and when due.

3. The facts, in short, giving rise to this OA are that the applicant was appointed as EDBPM, Thokwa district Basti vide order dated 24-7-1998 (Annexure-A-2) after following due process of selection. The applicant took over charge of the said post on 31-7-1998. As per respondents, one Sri Amresh Prasad Pandey, who was also a candidate for the post, submitted a representation to the Chief Post Master General, Lucknow and the Post Master General, Gorakhpur. The appointment of the applicant was reviewed by the Director Postal Services, Gorakhpur, who issued a direction vide order dated 1-9-2000 that since the appointment on the post of EDBPM, Thokwa was done without

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prior verification of the income/property from the competent authority the appointment of the applicant was ordered to be terminated. In compliance of the order of the Director Postal Services dated 1-9-2000 the impugned order dated 23-2-2001 had been issued terminating the services of the applicant, Hence, this OA, which has been contested by the respondents by filing counter reply.

4. Heard Sri BC Naik, learned counsel for the applicant and Sri GR Gupta, briefholder of Sri RC Joshi, counsel for the respondents in OA No.292/01. Sri B.C. Naik, learned counsel for the applicant submitted that the services of the applicant have been terminated only because the verification of income certificate was not received from the District Magistrate, Basti till 11-10-1999 as averred in Para 15 of the counter reply. Learned counsel for the applicant further submitted that the applicant has been rendering services on the said post from 31-7-1998 till the date of filing of OA i.e. 19-3-2001 and still continuing as the impugned order has been stayed by this Tribunal vide order dated 23-3-2001. No reason for termination nor an opportunity of hearing has been given to the applicant inspite of the fact that he was appointed against the vacant post after observing the process of selection.

5. Resisting the claim of the applicant Sri GR Gupta, briefholder of Sri RC Joshi, counsel for the respondents has submitted that the appointment of the applicant should have been done after proper verification of the certificate including that of income, which was not done and the appointment was incorrectly and irregularly made.

6. We have considered the submissions of the counsel for the parties and perused the records as well as the pleadings. Admittedly the applicant was selected as EDBPM

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Thokwa, District Basti after due process of selection. The applicant submitted all the required certificates and it was the duty of the respondents to have got it verified. The very fact that the applicant was appointed against a clear vacancy and possessed all the eligibility conditions, his services cannot be terminated merely on the ground that the income verification report had not been timely received from the District Magistrate, Basti. The action of the Director Postal Services is certainly not in accordance with law and rules. The applicant cannot be held in any way responsible for non-receipt of verification report of income from District Magistrate, Basti. The respondents had sufficient time to procure the same before passing the impugned order dated 23-2-2000.

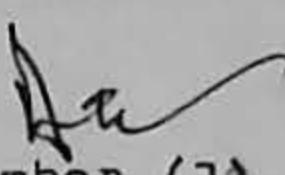
7. We also find substance in the submission of learned counsel for the applicant that the post of EDBPM is reserved for Backward Class Community as per notification dated 2-6-1998 and the applicant Sri Ashok Kumar Chaudhary belongs to OBC. Sri Amresh Prasad Pandey, the applicant in OA No.1606/2001 belongs to General Category and cannot claim the said post.

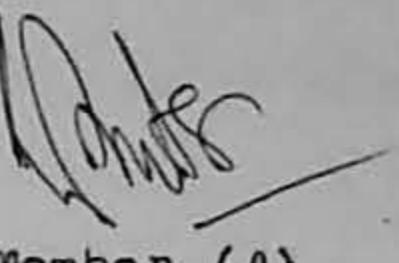
8. In the facts and circumstances of the case and our aforesaid discussion, the OA is allowed. The impugned order dated 23-2-2001 is quashed. We direct the respondents not to interfere with the working of the applicant.

9. OA No.1606/2001. The facts, in short, are that Sri Amresh Prasad Pandey who was also a candidate for the selection of the said post was not selected. He represented before the Chief Post Master General/Post Master General, Gorakhpur and has filed this OA No.1606/2001 in which he has claimed the appointment to the post of EDBPM, Thokwa as he fulfills all the requisite qualifications for the said post.

10. Since the appointment of Ashok Kumar Chaudhary, the applicant in DA No.292/2001 to the post of EDBPM Thokwa is found to be correct as per rules, and the DA has been decided on merit ^{and allowed,} the DA No.1606/2001 is liable to be dismissed because the applicant Amresh Prasad Pandey was not selected on the basis of merit vis-a-vis Ashok Kumar Chaudhary. The DA is accordingly dismissed being devoid of merit.

11. There shall be no order as to costs.


Member (J)


Member (A)

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