

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD**

ORIGINAL APPLICATION NO. 544 OF 2001

THIS THE 10th DAY OF NOVEMBER, 2005.

HON'BLE MR. D.R. TIWARI, MEMBER (A)
HON'BLE MR. K.B.S. RAJAN, MEMBER (J)

Ashok Kumar Pathak, S/o Lalta Prasad Pathak, R/o
Village & P.O. Kanwani (Kuteer Chakke) Tehsil
Kerakat, District Jaunpur

.....Applicant

By Advocate : Sri M.K. Misra

Versus.

1. Union of India through C.P.M.G., Lucknow.
2. Director of Postal Services, Allahabad.
3. Supdt. Of Post Offices, Jaunpur.
4. Ashok Kumar Yadav, S/o Sri Gulab Yadav, R/o
Village Pidari, P.O. Kanwani, District
Jaunpur.

.....Respondents

ORDER

By K.B.S. RAJAN, MEMBER (J)

The applicant in this case challenges the
appointment of respondent no.4 as Branch Post Master
Kanunun, Janupur, vide order dated 2.2.2001
(impugned). The relief sought as contained in para

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- (i) issue a writ order or direction in the
nature of certiorari quashing the
impugned appointment order dated 2.2.2001
made by Opp. Party no.3.
- (ii) issue a writ order or direction in the
nature of mandamus directing the
respondents to appoint the applicant on
the said post as Branch Post Master in
EDBP at Vanwani, District Jaunpur.

(iii) issue a writ order or direction in the nature of mandamus directing the respondents to pay the salary to Opp. Party no.4.

(iv)

(v)"

2. Briefly the case of the applicant as extracted from para 4 of the O.A. is as under:-

- (a) The Opp. Party no.4 has passed his High School examination in third (IIIrd) division in the year 2000 as regular candidate from Janta Inter College, Khaparaha, Jaunpur.
- (b) The Opp. Party no.4 has passed his purva Madhyamaik Examination in the year 2000 as regular candidate in Ist division in which his date of birth is 28.10.2001¹⁹⁸¹. Knowing the forgery made by the Opp. Party no.4, one Ramesh Pal made an application to the Superintendent of Post offices that Opp. Party no.4 has passed his High School Examination from different Institution and in both the certificates date of birth is different. In High School Examination 2000, his date of birth is 27.9.1983.
- (c) The applicant has also made representation to the Opp. party no.3 about the forgery committed by Opp. Party no.4 praying that the appointment made on the said post be cancelled.

3. The official respondents have filed their version vide their Counter and briefly the same is as under:-

- (a) The appointment of the respondent no.3 has been done in accordance with Rules and when he was found most meritorious and



fulfilling all the required qualification and there is no illegality or irregularity.

(b) Due to the involvement of the incumbent of the post of Extra Departmental Branch Post Master, Sri Gulab Chand Yadav in the Saving Bank fraud case he was put off duty and the post fell vacant.

(c) A notification was sent to the Employment Officer, Jaunpur requesting him to sponsor the names of minimum three candidates and applications for the said post were also invited through the Open advertisement dated 17.7.2000.

(d) After the receipt of the application, a scrutiny was done and thereafter four under-noted candidates found suitable:

- (i) Smt. Nirmala Devi
- (ii) Sri Ramesh Chandra Pal
- (iii) Sri Ashok Kumar Yadav
- (iv) Sri Ashok Kumar Pathak

(e) The verification report was received from the District Magistrate, which revealed that all the four candidates satisfied the condition of income and sources of income and character and antecedent.

(f) The marks sheet submitted by Smt. Nirmala Devi and Sri Ramesh Chandra Pal were found bogus and the marks sheet of Sri Ashok Kumar Yadav were found correct and he was also fulfilling all other conditions for the appointment on the post, in question.

(g) It was found that the marks obtained by Sri Ashok Kumar Yadav were 75.2% and higher than the marks obtained by Sri

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Ashok Kumar Pathak who secured 68%. Therefore, Sri Ashok Kumar Yadav secured higher marks than Sri Ashok Kumar Pathak, he was selected and appointed on the post of EDBPM, Kanuwani, vide memo dated 2.2.2001.

- (h) The marks sheet submitted by the respondent no.4 was found genuine and he was also fulfilling all other conditions for appointment, therefore, he was appointed and his appointment is justified.

4. The private respondent no.4 has also defended the case and his contention is as under:-

- (a) "The respondent no.4 has not passed the High School Examination from Janta Inter College, Janpur.
- (b) The respondent no.4 has passed the Poorva Madhyamik Examination from Hari Narain Adarsh Sanskrit Mahavidyalaya Jagapur, Bhaupur, Janpur and his date of birth is 28.10.1981.
- (c) It is submitted that the date of birth of the applicant is 28.10.1981. The applicant has obtained 68% marks in the High School examination, but the respondent no.4 has obtained 75.8% marks and as such he was top in the merit and according to EDAs (Conduct & Service) Rules, 1964, the main criteria for making the appointment is merit and the respondent no.4 fulfilled all the eligibility conditions for appointment on the said post.

- (d) The respondent no.4 has secured 75.8% marks in Poorva Madhyamik Pariksha and the applicant has obtained 68% marks."

5. Arguments have been heard and documents perused.

6. The private respondent has secured 75.8% while the applicant has secured only 68% in the qualifying examination. Though, the application has questioned the veracity of the marks sheet of respondent no.4, the same is on the basis of the High School examination certificate from a different Institution in which the date of Birth of the said respondent has been indicated 27.9.1983. According to the applicant, the said respondent secured only 263 out of 600. The applicant has annexed the Marks sheet of Ashok Kumar Yadav in this regard. The said marksheet nowhere reflects the name of the father of the said Ashok Kumar Yadav, nor indicate the date of Birth. For this purpose, the applicant has filed the School Leaving certificate of the said Ashok Kumar Yadav, S/o Sri Gulab Yadav wherein the date of birth is shown as 27.9.1983. On the other hand, the said private respondent relies upon his own sworn affidavit in addition to the Certificate dated 8.8.2000 as per which the total marks secured by him are 376 out of 600. According to the ^{Private Respondent} applicant, his father's name is Gulab Chandra Yadav. Thus, reliance placed upon by the applicant cannot be true. There is no interlinked between the marks

sheet and the school leaving certificate relied upon by the applicant, to substantiate that the private respondent has secured less marks than the applicant. Thus, the O.A. is devoid of merits and the same is accordingly dismissed.



MEMBER-J



MEMBER-A

GIRISH/-