

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 11<sup>th</sup> day of January 2008.

Original Application No. 88 of 2001

Hon'ble Mr. G. George Paracken, Member (J)  
Hon'ble Mr. K.S. Menon, Member (A)

Bheem Singh, S/o late Raghava Singh, R/o vill. And P.O. Pipra Kachhar, Tehsil Rudrapur, in the Distt: Deoria.

... Applicant

By Adv. Sri J.M. Sinha and Sri A. Tripathi

**V E R S U S**

1. Union of India through Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Sr. Supdt. Post Offices, Deoria Division, Deoria.

... Respondents

By Adv. Sri S. Singh

**O R D E R**

By G. George Paracken, Member (J)

The OA under Section 19 of the AT Act, 1985 has been filed by the applicant aggrieved by the Annexure 1 notification dated 04.12.2000 re-advertising the vacancy on the post of BPM, Pipra Kachhar, (Rudrapur) Distt: Deoria while the notification for the same post made on 23.11.1998 was never cancelled and more than 10 candidates including the applicant had applied for the post and no selection was made.



2. The brief facts of the case are that the post of EDBPM, Pipra Kachhar, (Rudrapur) Distt: Deoria fell vacant due to the retirement of the incumbent to that post one Shri Pati Ram Singh on 31.08.1998. In order to fill up the said vacancy by fresh appointment, the respondent No. 2 issued Annexure 2 notification dated 23.11.1998. Side by side, the vacancy for the post of EDBPM, Bariyarpur was also notified vide Annexure 3 dated 23.11.1998. The closing date for receiving the applications for the both posts was 22.12.1998. The applicant applied for the post of BPM, Pipra Kachhar, Rudrapur, Distt: Deoria and his application was received by the respondents on 21.12.1998. Applicant had secured 66% marks in the High School examination and he was a permanent resident of PO Pipra Kachhar, Rudrapur, Distt: Deoria where the vacancy had arisen. His personal income from agriculture and other sources was Rs. 1100/- per month and he had 10.9 ares land in his name. The respondents had made enquiries and verification of the documents submitted by him alongwith his application through SDI (PO) West Sub Division Deoria. On his direction made vide letter 03.04.2000 (Annexure A-12) he appeared before the SDI on 11.04.2000 and got all his paper verified. Therefore, he was waiting for his appointment as the verification of the documents of the Applicant has been completed and report from the SDI was received by the Respondents. On the other hand the respondents had already completed the process for appointment to the post of EDBPM, Bariyarpur and a person has also been appointed to that post. To the utter surprise of

the Applicant after 2 years of waiting for appointment, the respondent No. 2 re-advertised the vacancy vide annexure A-1 notification dated 04.12.2000 stating that the vacancy was reserved for SC community. The allegation of the applicant is that the respondent No. 2 namely, the Senior Superintendent of Post Offices, Deoria Division had re-advertised the vacancy only because the applicant was not a man of his personal choice and he wanted to favour some other person. The other contention of the applicant is that the respondents' claim that the post of EDBPM, Pipra Kachhar, Rudrapur, Distt: Deoria is reserved for SC is absolutely wrong and misleading as because under the reservation policy of the Govt. of India, post based rosters are maintained and every vacancy is planted in the roster in accordance with the roster points earmarked for different categories of employees. The Respondent No. 2 has neither cancelled the earlier notification dated 23.11.1998 nor it has been stated in the fresh notification dated 04.12.2000 that it was being issued in supercession <sup>✓</sup> of the earlier one.

3. The respondents in their reply have admitted that the post of EDBPM, Pipra Kachhar had fallen vacant on 31.08.1998 by the retirement of the incumbent of the post Sri Patiram Singh. They have also submitted that in the notification dated 23.11.1998 it was shown that the post was reserved for ST and in response to the same the employment exchange has sponsored the names of S/Sri Vinod Chaudhary, Ashok Chaudhary, Mahendra Chaudhary and Madan Gaur vide their



letter dated 15.12.1998. Apart from them 17 other candidates also applied for the post. According to the respondents from the period from 1980 to 1998, 32 posts have to be filled up from ST category and since none of the candidates were eligible, further notification was sent to the Employment Exchange on 04.12.2000 requesting to forward the names of SC candidates suitable for the post. In response to the said notification 20 candidates have applied directly and 6 persons were sponsored by the Employment Exchange.

4. When this OA came for admission on 15.02.2001 after having heard the counsel for the applicant this Tribunal has ordered that the selection on the basis of the notification dated 04.12.2000 may continue but no final appointment shall be made to the post of EDBPM, Pipra Kachhar, Rudrapur, Distt: Deoria without the leave of this Tribunal.

5. We have heard Sri A. Tripathi learned counsel for the applicant and Sri R.C. Shukla brief holder of Sri S. Singh, learned counsel for the respondents. First of all, we find that the affidavit filed by the respondents is not fully correct. The contention of the Respondent No. 2 is that the notification dated 23.11.1998 was meant for ST candidates. However, a perusal of the copy of the said notification annexed with this OA as Annexure A-2 does not show that there was any mention to the effect that it was reserved for the ST category of candidates. The other contention of the applicant is that since ST

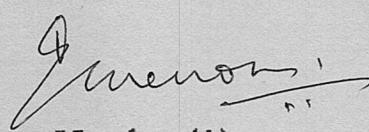
candidates were not available, further notification was issued on 4.12.2000 requesting the Employment Exchange to sponsor the SC candidates. The Respondent No. 2 has not clarified under what rule he is permitted to reserve the post for SC category candidates ~~are not available~~. As submitted by the applicant, after the Post Based Roster has been introduced for the purpose of the reservation of vacancies, there is no scope for any doubt in the mind of the respondents as to whether a particular vacancy is to be filled up from amongst the Unreserved, SC or ST candidates. The applicant had applied for the post of EDBPM, Pipra Kachhar, Rudrapur, Distt: Deoria pursuant to the Annexure A-2 notification dated 23.11.1998 in which there is no mention that the post was earmarked for ST candidates. It appears that the re-advertising the vacancy again by the impugned notification dated 04.12.2000 showing the vacancy as earmarked for SC candidates is an after thought of the Respondent No. 2. In any case, because of the irresponsible conduct of the Respondent No. 2, more than 2 years have been wasted even in identifying whether the post was earmarked for Unreserved, SC or ST category of employees. The net result is that the respondents could not fill up the post of BPM Pipra Kachhar for the last 9 years.

6. In this circumstances of the case, we direct the Post Master General, who is incharge of the Deoria Division to look into the matter and satisfy himself first whether the post of EDBPM, Pipra Kachhar, Rudrapur, Distt: Deoria fallen vacant

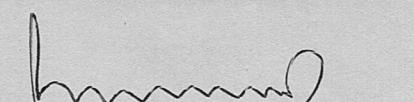
on 31.08.1998 was reserved for SC or ST candidates. The Post Master General shall after conducting an enquiry into the matter including the lapse on any official, if any, inform the applicant in clear terms whether the aforesaid post of EDBPM, Pipra Kachhar, Rudrapur, Distt: Deoria was open to the general category candidates or it was reserved for the SC/ST candidates as contended by the respondent No. 2. In case the post is found to be not reserved for SC or ST candidates and it was open to the general category candidates, the applicant's case shall be considered in accordance <sup>with</sup> ~~of~~ the rules. However, if the post has to be filled up from against the SC candidates as now proposed through the Annexure A-1 notification dated 04.12.2000 as per rules, the respondents will be at liberty to go ahead and complete the selection process already initiated and appoint the suitable candidate for the post in question. The above directions shall be completed within a period of two months from the date of receipt of this order.

7. This is OA is disposed of in the aforesaid terms. There shall be no order as to costs.

/pc/



Member (A)



Member (J)