

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 16th day of SEPTEMBER 2004.

Original Application no. 1185 of 2001.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman  
Hon'ble Mrs. Roli Srivastava, Member A

Bishram Prajapati, S/o Late Shri Molai Ram,  
R/o Vill and Post Belasin, Tehsil & Police  
Station, Machhali Shahar, Distt. Jaunpur.

... Applicant

Sri V. Singh  
By Adv : Sri Amar Nath  
Sri V.K. Savita  
Sri R.R. Prajapati

V E R S U S

1. Union of India through the Ministry of Communication,  
Department of Post,  
NEW DELHI.
2. Superintendent, Post Offices, Jaunpur Division,  
JAUNPUR.
3. Birendra Kumar Tiwari, S/o Sri D.N. Tiwari,  
R/o Vill Tekardeeh, Tehsil & Post Office  
Selasin, Machhali Shahar,  
JAUNPUR.

... Respondents

By Adv : Sri S. Singh  
Sri H.S. Srivastava  
Sri G. Prasad

O R D E R

Justice S.R. Singh, VC.

Heard Sri V. Singh, learned counsel for the applicant  
Sri S. Singh & Sri H.S. Srivastava, learned counsel for the  
respondents and perused the pleadings.

2. The applicant and respondents no. 3 were candidates

*2 amongst the*

....2/-

who had applied for the post of Extra Departmental Branch Post Master (EDBPM), Branch Post Office, Belasin, Distt. Jaunpur. Appointment to the post is required by the Rules to be made on the basis of merit determined as per marks obtained in the Matriculation Examination. It is not disputed that the applicant had secured highest marks in the Matriculation examination amongst all the candidates who had applied for the post. He has, however, been denied appointment on the basis of a Police report (Ann CA3), according to which he was an active member of Samajvadi Party. It is contended by the learned counsel for the applicant that the applicant was not a member of Samajvadi Party, what to say of being an active member thereof and the Police report was <sup>e</sup>manoeuvred by the respondent no. 3 with a view to get appointment even though his marks in the Matriculation examination were less than those of the applicant. Learned counsel for the applicant has also submitted that Rule 18 (1) of the EDBPM Rules forbids an employee who shall be a member of, or otherwise associated with, any political party or any organization which takes part in politics, nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity. The said provision, it is submitted by the learned counsel for the applicant, is not attracted because it comes into play after appointment. Sub-Rule (2) of Rule 18, it is submitted, also does not come into play for it speaks of 'duty of every employee', which necessarily means that this provision would also come into play after appointment.

3. The learned counsel for the respondents has, however, placed reliance on D.G. P & T Letter No. 43/104/69-Per dated 14.1.1970 according to which no person holding an elective office should be considered for the appointment

3.

of ED Agents. Be that as it may there is nothing on record to show that the applicant holds an elective office in Samajvadi Party and the question whether he was an active member of Samajvadi Party too ought to have been decided after affording an opportunity of hearing to the applicant. We are of the view that matter needs to be re-considered at the level of SSPO Jaunpur. However, since respondent no. 3 is working on the post for the last more than 3 years it would be just and proper not to interfere with his working till an adverse decision is taken by the SSPO, Jaunpur in accordance with this judgment.

4. Accordingly, the OA is disposed of with the direction that the SSPO shall afford an opportunity of hearing to both the parties and decide whether the applicant holds an "elective office" with the meaning of D.G. P & T letter dated 14.01.1970 so as to disqualify him for being considered for appointment as EDBPM and in case it is found that the applicant did not hold an "elective office" of a political party then in that event the SSPO Jaunpur shall pass appropriate order ensuring that a candidate having secured highest marks in the Matriculation examination is appointed on the post. Decision in this regard shall be taken within a period of three months from the date of communication of this order.

5. There shall be no order as to costs.

  
Member (A)

  
Vice-Chairman

/pc/