

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 213 of 2005

Allahabad this the 25th day of May, 2010

Hon'ble Mr. A.K. Gaur, Member (J)
Hon'ble Mr. S.N. Shukla, Member (A)

Vijay Kumar Yadav, aged about 20 years, Son of Ram Lochan Yadav, Resident of Village Deoghat, Post Bhatni, Tehsil Salempur, District Deoria.

Applicant

By Advocate: Sri V.K. Srivastava

Vs.

1. Union of India, through Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Deoria Mandal, Deoria.
3. Chief Post Master General, Gorakhpur.
4. Gram Dak Sewak Post Master, Tikampur Bhatpar-rani, Deoria.
5. Subhash Yadav, son of Sri Shivdeni Yadav, Resident of Village and Post Tikampar Bhatpar-rani, district Deoria.

Respondents

By Advocates: Sri R.K. Srivastava (for official respondents)

Sri R.B. Yadav (for private respondent)

ORDER

By Hon'ble Mr. A.K. Gaur, Member (J)

Through the preset O.A., the applicant has sought the following relief (s): -

- "(i) That by means of suitable order or direction in the nature of certiorari quashing the impugned order dated 14-1-2005 passed by respondent no. 2 (Annexure-5 to the compilation A);
- (ii) That by means of suitable order or direction in the nature of mandamus commanding the respondents to make appointment of the applicant to the post of Gramin Dak Sewak Bhatpar-rani, Deoria in pursuance of the notification

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dated 16-6-2004, with all benefit of post and pay scale as are admissible under rule.

- (iii) That by means of suitable order or direction in the nature of mandamus commanding the respondents to make the payment of salary for the post of Gramin Dak Sewak to the applicant month to month as and when it falls due.*
- (iv) To issue any suitable order or direction as this Hon'ble Court may deem fit and proper under the circumstances of the case.*
- (v) To award cost of the application to the applicant."*

2. The facts of the case, as per the applicant, are that the official respondents have notified one vacancy for the post of Gramin Dak Sewak, Branch Post Master, Tikanpur reserved for O.B.C., vide notification dated 16.06.2004. The applicant along with other 50 candidates applied for the aforesaid post. On 16.06.2004, the applicant submitted a representation to the respondents along with income certificate, age proof and residential certificate. As per the applicant, he is having sufficient source of income, own residential house and having accommodation for opening the Gramin Dak Sewak Office at Tikampur. In this regard, applicant has filed the reports dated 29.11.2004, 03.12.2004 and 04.12.2004 (annexure A-3). Further case of the applicant is that he has passed High School Examination with 66.1% marks. The respondents in accordance with the service rules has conducted the selection proceedings and prepared a panel of 4 candidates for one post after considering 50 candidates, in which the applicant placed at serial No. 3 and Subhash Yadav-respondent No. 5 placed at serial No. 4. It is stated that the proof of educational qualifications placed by the candidates placed at serial No. 1 and 2, were forged therefore, their claims were not considered by the respondents. It is alleged by the applicant that ignoring his claim, the candidature of private respondent No. 5-Subhash Yadav was wrongly considered by the respondents. The

applicant alleged that the respondent No. 5 got less marks than the applicant in High School examination and is a man of criminal background, the candidature of the applicant has wrongly been rejected by the Respondents. The applicant has challenged the impugned order dated 14.01.2005 in the present O.A.

3. On notice, the respondents have filed the Counter Affidavit, stating therein that the post of Gramin Dak Sewak, Branch Post Master, Tikampur, Bhatpur-rani, District Deoria fell vacant due to retirement of one Sri Ram Nagina Lal. The said post was notified vide notification dated 16.06.1994 after obtaining due approval from the Post Master General, Gorakhpur Region, Gorakhpur and the applications were invited from only OBC candidates through Employment Exchange and also from the open market. The Employment Officer, Deoria sent a list of 20 candidates belonging to OBC, whereas 14 applications were received from the open market. Therefore, total 34 applications were received. It is stated that out of 34 candidates, three candidates namely S/Shri Ram Ashish Sharma, Ram Narayan Sharma and Mohd. Inharool were not interested and did not respond. Consequently, a list of other candidates possessing higher percentage of marks in High School examination was prepared. It is stated that the educational qualifications placed by the candidates placed at serial No. 1 and 2, were forged and they have also wrongly mentioned their respective date of birth, therefore, their claims were not considered. With regard to the applicant, the respondents submitted that although the records of educational qualifications of the applicant were found to be genuine, but there is no independent property in his name. It is stated that since applicant could not submit any certificate of

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independent income from Aata Chakki and other sources, as mentioned in his statement, at the time of verification by the Inspector (Posts), East Division, Deoria, his candidature for appointment on the aforesaid post of Gramin Dak Sewak, Branch Post Master, Tikampur was not considered and rejected. With regard to respondent No. 5, the respondents admitted that he got less marks than the applicant but as per the respondents, the respondent No. 5 has independent source of income from the property in his name. The educational certificates produced by the respondent No. 5 were also found to be genuine. As regards the criminal background of respondent No. 5, the respondents have clearly submitted that the character of respondent No. 5 has been found to be satisfactory, as per report of District Magistrate, Deoria (Annexure CA-6). In view of aforesaid submissions, the respondents have prayed for dismissal of the O.A.

4. The respondent No. 5 has not filed any Counter Affidavit even though Sri R.B. Yadav, Advocate has filed power on his behalf.

5. The applicant has filed the Rejoinder Affidavit, reiterating the facts already mentioned in the O.A. In reply to the same, the respondents have filed the Supplementary Counter Affidavit.

6. We have heard the learned counsel for the parties and perused the pleadings on record.

7. The main contention of the applicant is that even though he fulfilled all the eligibility criteria for the post of Gramin Dak Sewak, Branch Post Master, Tikampur, his candidature was wrongly

rejected by the respondents. As per the respondents, since applicant could not submit any certificate of independent income from Aata Chakki and other sources, as mentioned in his statement, at the time of verification by the Inspector (Posts), East Division, Deoria, his candidature for appointment on the aforesaid post of Gramin Dak Sewak, Branch Post Master, Tikampur was not considered. It is seen from the records that the respondent No. 5 has produced the certificate of independent income and provided the accommodation where the Branch Post Office was to be opened. The respondents have also submitted that the character of respondent No. 5 has been found to be satisfactory, as per report of District Magistrate, Deoria (Annexure CA-6).

8. In view of our aforesaid observations, we are satisfied that the applicant has failed to make out any case warranting interference.

9. In view of the above discussions, the O.A. stands dismissed.

No order as to costs.



[S.N. Shukla]
Member - A



[A.K. Gaur]
Member - J

/M.M/