

RESERVED
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the ^{3rd}..... day of ~~Dec.~~, 2009.

PRESENT:

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

Original Application No.352 of 2005
(U/s 19 of Administrative Tribunals Act 1985)

Tribhuwan Singh
S/o late Sri Ramanand Singh,
R/o Village Batarauli
Post Office Parasia Chhitani Singh,
District Deoria.Applicant

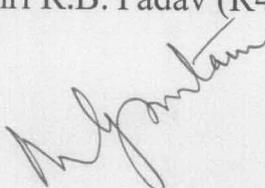
(By Advocate Shri K.K.Mani)

Vs.

1. Union of India, through Secretary,
Ministry of Communications,
Department of Posts,
Government of India,
New Delhi.
2. Senior Superintendent of Postal,
Deoria Division,
Deoria.
3. V.K. Lal Srivastava,
Senior Superintendent of Postal,
Deoria Division,
Deoria.
4. Subhash Yadav,
S/o Shri Shiv Deni Yadav,
R/o Village and Post –
Tikampur
District Deoria.Respondents

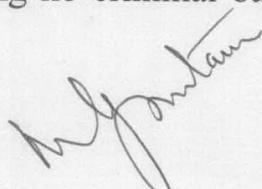
(By Advocate Shri S.C.Mishra (R.1&2)

(By Advocate Shri R.B.Yadav (R4)



ORDER**HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A**

The facts of the case are that, on the retirement of Shri Ram Nagina Lal Srivastav from the post of Gramin Dak Sevak Branch Postmaster, P.O Tikampur in June 2004, a vacancy arose for one OBC candidate which was communicated to Employment Officer, Deioria for circulation. The applicant possessing necessary qualifications, applied for the same. Apart from calling the names from Employment Exchange, direct applications were also invited vide advertisement dated 16.6.2004. The names of six candidates were sponsored by the Employment Exchange and after scrutiny, a merit list was prepared in which the applicant was placed at Sl.No.1, whereas the name of 4th respondent Shri Subhash Yadav was placed at Sl.No.5. In pursuance of letter dated 16.9.2004 issued by the 2nd respondent, the applicant submitted details regarding land held in his name as well as independent income. There was also police verification and enquiry by the Revenue Department in respect of the applicant. A complaint was also made by the applicant against the respondents vide letter dated 14.1.2005 that the 4th respondent Shri Subhash Yadav threatened him. The applicant has also stated that the 4th respondent does not fulfill the necessary conditions of owning adequate land independently, having independent source of income and having no criminal background, and yet he has been



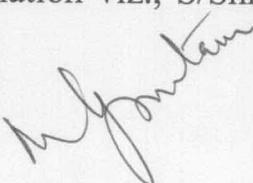
selected. The present O.A. has been filed by him claiming the following reliefs:

- i. To allow the original application and quash the selection and appointment of the respondent No.4 Subhash Yadav against the post of Gramin Dak Sevak Branch Postmaster, Post Office Tikampar, Bhatpar Rani Deioria in pursuance to the advertisement dated 16.6.2004.*
- ii. To issue an order/direction commanding the respondents, respondent No.2 in particular to appoint the applicant on the post of Gramin Dak Sevak Branch Postmaster, Post Office Tikampar, Bhatpar Rani Deioria in pursuance to the advertisement dated 16.6.2004.*
- iii. To grant any other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case besides costs and expenses of the original application.*
- iv. To award cost of the petition in favour of the applicant.*

2. Heard both the counsel and perused the records on file.

Counsel for applicant vehemently argued about the unsuitability of the 4th respondent for the post and therefore the illegality of his selection.

3. A perusal of the counter affidavit filed by the respondents and the case made out by them brings startling facts to light. According to the counter affidavit, in response to the advertisement issued on 16.6.2004, twenty (20) applications were received in Employment Exchange Office and fourteen (14) applications were received from the open market. Out of these 34 applications, three candidates who had secured First Division in High School Examination viz., S/Shri Ram Ashish Sharma, Ram

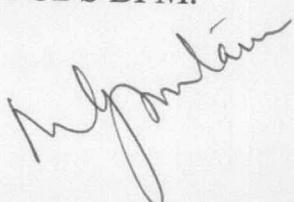


Narayan Sharma and Mohd. Inharool, were asked to submit their application for being appointed, but, no response was received from them. Out of the remaining, a merit list of four candidates which is placed at page 10 of the counter affidavit was made in which the applicant was placed at Sl.No.1 and the 4th respondent placed at Sl.No.4. The 4th respondent Shri Subhash Yadav has made a complaint against candidates at Sl.No.1 & 2 saying that they had appeared in the High School Examination conducted by the U.P. Board in the year 1994, wherein candidate at Sl.No.1 was failed and candidate at Sl.No.2 was passed with second class. Upon enquiry it was found that candidate at Sl.No.1 (applicant in this O.A.) appeared in U.P. Board High School Examination in the year 1994 and secured only 192 out of 600 marks and was placed in the failed category, whereas candidate at Sl.No.2 also appeared in the U.P. Board High School Examination in the year 1994 and secured 276 out of 600 marks and passed in second division. The dates of birth of the applicant was shown as 4.1.1981 and that of the candidate at Sl.No.2 as 1.7.1979. Both these candidates had applied for the vacant post of GDS BPM enclosing mark sheet, certificates of the High School Examinations conducted by the Bihar Board in the same year 1994, wherein the marks of candidate at Sl.No.1, i.e. the applicant was 646/900 (71.77%) and his date of birth was shown as 24.2.1980, whereas the marks of candidate at Sl.No.2 is 632/900 (70.22%) and his date of birth was shown as 21.2.1980.

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4. The results of the U.P. Board Examination in respect of both the candidates is placed at Annexure CA-1, and the results concerned with Bihar Board, High School examination are placed at Annexure CA-2 and Annexure CA-3 respectively. Taking into consideration the fact that both the candidates had submitted two separate dates of birth as well as two sets of marks obtained by them was enough for not considering them suitable for appointment. The candidate placed at Sl.No.3 i.e. Shri Vijay Kumar Yadav could not submit certificate of independent income or property and hence his candidature was not considered. As a consequence, the details submitted by candidates at Sl.No.4 i.e. Shri Subhash Yadav (4th respondent) were verified from D.M. Deioria who vide letter dated 16/17.11.2004 verified his property and income as well as his character. His educational details are also verified and accordingly he was selected and he is working on the said post since 18.1.2005.

5. Keeping in view the fact that, the applicant has submitted two dates of birth as well as two sets of mark sheets and had appeared for two examinations in the same year and had failed in one and qualified in the other, was sufficient to render him unfit for selection to the post of GDS BPM.

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6. Hence, no case is made out in his favour and the O.A. is accordingly dismissed. No costs.

Alphonse M
AM

J. M.
JM

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