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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A.No.772 of 1986

Gir Raj Singh Yadav Applicant

Versus

Union of India & Another Respondents

Hon.S.Zaheer Hasan, V.C.
Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

This is an application under Section 19
of the Administrative Tribunals Act XIII of 1985.

2. At the time of admission we heard the
learned counsel for the applicant at length on merits
of the case. So we are examining the merits of this
case. The applicant's case is that vide application
dated 5.8.86 eight persons applied for the post of
Extra Departmental Branch Post Master, Sahar. However,
on 8.10.1986 the S.D.I. (West) Mr. Rai Bahadur Sengar
appointed the applicant provisionally. On 17.11.1986
the respondent No.2, Chaturbhuj Sharma was illegally
appointed as E.D. Branch Post Master Sahar. The
respondent No.2 is a criminal type of man and his
antecedents were not verified in advance which is
mandatory according to rules. The appointment letter
issued to the ^{Respondent 2} applicant was not in required form nor
it contained required warning that if he was subsequently

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found unsuitable he would be discharged from service. The respondent No.2 did not produce any medical certificate which is mandatory. The applicant owns a medical shop and he has sufficient space to serve the agency and he has also adequate means of livelihood. He is also a permanent local resident and owns shop and land. He was already working since 8.10.1986. So when the respondent No.2 was appointed on 17.11.1986 the applicant should have been given preference. He scored more marks and has better educational qualification than that possessed by respondent No.2. The applicant has not yet been served any order of removal and he is afraid that he might be removed at any time so he has not preferred any appeal before any competent authority. So it is prayed that the appointment of respondent No.2 be quashed and the authorities be directed to issue an order for permanent appointment of the applicant to the post of E.D. Branch Post Master, Sahar.

3. According to the counter affidavit filed by the respondents one Deep Chand was working as E.D. Branch Post Master, Sahar. He submitted his resignation which was accepted on 5.3.1986. The Sub Divisional Inspector was directed to arrange transfer of charge to some suitable person till a regular incumbent was selected. The Employment Exchange sent 8 names and out of them only two persons applied for the post. As per instructions there should be

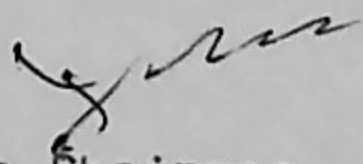
atleast three applications so another notific-ation was issued on 5.8.1986 calling for applications directly for the appointment. In response to this notification eight applications were received including that of the applicant Gir Raj Singh Yadav. All the applications were duly considered and Shri Chaturbhuj Sharma respondent No.2 was found suitable and he was appointed provisionally on 17.11.1986. The aforesaid Deep Chand who has resigned was relieved on 17.4.86 and one Puran Mal Sharma took over charge on 17.4.86 and continued to work upto 8.10.1986. While the applications for the post were being scrutinized P.M.Sharma while working as E.D. Branch Post Master illegally handed over the charge to the applicant without any proper authority. In this connection necessary action is being taken against P.M.Sharma. Since the respondent No.2 was found the best amongst all the applicants so he was selected and he is working since 3.1.1987. The applicant has not stated correct facts. He was never an employee of the Department and P.M.Sharma had no authority to hand over charge to the applicant. The respondent No.2 was appointed provisionally according to rules. Satisfactory police verification report regarding character and antecedents in respect of respondent No.2 had been received from the police authorities. A medical certificate regarding fitness of respondent No.2 is also on record. The applicant was not found suitable as compared to respondent No.2 as since respondent No.2 was the best candidate so he was

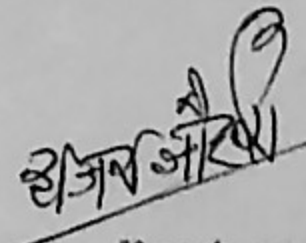
selected. Since the applicant acted in an illegal manner by taking over charge from P.M.Sharma so he could not be given any preference over respondent No.2 who was the best candidate. The appointment of respondent No.2 is valid and the applicant has no case, so his petition should be dismissed.

4. One Deep Chand ~~Sharma~~^M, E.D. Branch Post Master resigned on 5.3.1986. S.D.I. was asked to appoint some suitable person. So one P.M.Sharma worked from 17.4.86, when Deep Chand was relieved, upto 8.10.1986. On 8.10.1986 P.M.Sharma handed over charge to the applicant without any authority. P.M.Sharma had no right or authority to hand over charge to the applicant on 8.10.1986. All this was done while the applications for regular appointment ~~was~~^{were} being processed. The applicant himself admits that before his appointment could be approved, respondent No.2 was irregularly appointed. He has given a wrong picture. The fact is that P.M.Sharma had wrongly handed over charge to the applicant and there was no question of any approval. On the other hand action is being taken against P.M.Sharma for handing over charge illegally to the applicant. The applicant further admits that he has not received any appointment letter nor he has filed the same. It is immaterial that P.M.Sharma on his own accord handed over charge to him on 8.10.86. So the applicant's working on this post from 8.10.86 was irregular and it did not create any right. When

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all the applications were processed the respondent No.2 was found best person so he was selected. The applicant's contention that priority should have been given to him on the ground that he has already worked, cannot be accepted because his working since 8.10.1986 was illegal. Such type of person should not have been given any preference and he was rightly ignored by the authorities while they selected respondent No.2. Since the applicant has no right so it is immaterial that there are certain irregularity in the appointment of respondent No.2. There is nothing to suggest that any bungling or injustice was done as against the applicant. However, it is stated that police verification was done and medical certificate was also obtained as regards respondent No.2. So on merits, the applicant has absolutely no case. The application is dismissed at admission stage.


Vice Chairman


Member (A)

Dated the 27 Nov., 1987

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