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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 339 of 1987

Parbhu Nath Srivastava Applicant.

Versus

Union of India & others Respondents.

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

(Delivered by Hon. Ajay Johri, A.M.)

In this application received under Section 19 of the Administrative Tribunals Act XIII of 1985, the applicant, Parbhu Nath Srivastava, has challenged his non-selection as Extra Departmental Branch Post Master (EDBPM) and the appointment of another candidate, viz. Jitendra Kumar Srivastava, respondent no.3, on the post on 5.12.1986. According to the applicant he was fulfilling all the required qualifications for such an appointment but due to a false verification report submitted by the Naib Tahsildar, who is also related to respondent no.3, he was appointed in preference to the applicant. The applicant reported the matter to concerned authorities. The Additional District Magistrate (ADM) after getting a report from the Tahsildar sent a letter to the Senior Superintendent of Post Offices (SSPO) on 12.1.1987 but no action was taken on the same. Thus the rules laid down for appointment of EDBPMs have been violated. Thus the appointment of respondent no.3 is illegal and the applicant satisfying the rules should have been appointed.

2. The respondents' case is that out of the two

candidates, who were under considerations for appointment as EDBPM, respondent no.3 was selected because he had more monthly income and more marks in High School examination. The fact regarding the wrong certificate had been reported to the District Magistrate (DM), Varanasi on 23.1.1987 but no verification report has been received from him. So no rules have been violated.

3. Respondent no.3 has in his reply challenged the report of the Tahsildar. He has further alleged that the income of Rs.450/- per month is his own income and not ~~his~~ [✓] his father's income, who is a Central Government Employee drawing Rs.2,115/- per month. Thus the letter issued by ADM dated 12.1.1987 is based on incorrect information. He has also alleged that the Naib Tahsildar is a close relation of the applicant and not his. The report submitted by the Tahsildar has been sent by him without any opportunity of being heard having been given to him. He has thus been correctly appointed.

4. The applicant in his rejoinder has reiterated his earlier submissions. He has further said that ~~the~~ ADM's letter of 29.7.1987 has been received by SSPO. In this letter ADM has advised that the Tahsildar has ~~cancelled~~ [✓] the earlier income certificate issued on 24.9.1986 and that the Tahsildar has said that respondent no.3 has no personal income. Tahsildar's letter of 22.7.1987 has also been attached as Appendix 'RA-1' by the applicant.

5. We have heard the learned counsel for the respondents and the applicant. Sri Sanjay Goswami, learned counsel for the applicant, contended that since the rules laid down for appointment have been violated the

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appointment made is ab initio void. The learned counsel for respondent no.3 maintained that the income certificate issued was correct and before cancellation no opportunity was given to him.

6. In their reply filed on 17.8.1987 the Government respondents have said that the facts of the case have been reported by them to the District Magistrate vide letter no.A-137 of 23.1.1987 but no verification report has been received so far. Though the reply was filed on 17.8.1987 and we have heard the matter on 29.2.1988 no further light was thrown by the learned counsel for the Government respondents on the outcome of this reference. On the other hand the applicant has attached a copy of letter dated 29.7.1987 from ADM to SSPO. We are not aware of the action taken by the Government Respondents on receipt of this letter.

7. The Director General, P&T's letter of 30.1.81, extracts of which have been reproduced by the applicant in para 6(x) of his application, ~~which~~ lays down the criteria for judging adequate means of livelihood. From ADM's letter of 29.7.1987 it is seen that respondent no.3 does not have any adequate source of income. Thus on the face of it, it would appear that the Government Respondents have not followed the guidelines in making the appointment.

8. We, therefore, direct that respondents 1 & 2 will re-examine the appointment made by them on the disputed post in the light of the latest report submitted by ADM. They will make any further investigations that may be necessary, if they so like, to conclude the matter and will take a decision on the matter of the appointment to the post of EDEPM, Kamhari within a period of three

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months from the date of issue of this order. The appointment of respondent no.3 will be provisional till the matter is finalised by respondents no. 1 & 2. Under the circumstances we make no order as to costs. The application stands disposed of *by in terms of the above by* ~~accordingly.~~

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MEMBER (A).

JM
VICE-CHAIRMAN.

Dated: March 11th, 1988.

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