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Central Administrative Tribunal  
Allahabad Bench

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Registration O.A. No. 1377 Of 1988

Kamlesh Kumar Mishra ... Applicant

versus

Union of India and others .... Respondents

Hon' D.K. Agrawal, J.M.

Hon' Ms Usha Savara, A.M.

(By Hon' D.K. Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals' Act, 1985, is directed against the order of appointment of Shri Daya Ram Op.No.4, as Extra Departmental Branch Post Master (E.D.B.P.M.), village and Post Office Barahata, District Jaunpur.

2. Briefly, the facts are that the applicant worked as substitute E.D.B.P.M. w.e.f. 27-4-1987 to 1-7-87, 27-6-1988 to 11-8-1988 and 29-9-88 to 13-12-88. Thereafter, a vacancy was advertised on 31-10-88. The applicant, as well as, Daya Ram O.P. No. 4 applied for the post of E.D.B.P.M. The selection was under gone. The applicant was not selected. Shri Daya Ram O.P.No.4 was selected. The applicant is aggrieved with the selection.

3. We have heard the learned counsel for the parties and perused the record. We have observed number of times that, the function of the Tribunal is not to assess the relative merits of the candidates. The assessment of the merits of the candidates is the function of the Selection Committee. We can only interfere with the selection, if the Selection

*DK Agrawal*

Committee has committed any illegality or it has acted arbitrarily or with malice etc. etc. To our surprise no such ground exists in the claim petition. In the supplementary affidavit dated 17-1-89 also no such specific ground has been alleged. Emphasis was laid by the learned counsel for the applicant, time and again on the comparative merits of the candidates. We are of the opinion that we are in no position to judge the relative merits of the candidates. Therefore, we do not find any ground to interfere with the selection.

4. Before we part, we may refer to a sale deed filed as Annexure-3 with the counter affidavit, which mentioned that the applicant was the resident of village Bari Post Office Baharata. The said sale deed has been executed by the applicant's own relation Ram Dular. Therefore, there appears force in the contention of the Opposite parties that the applicant was not the resident of village Barahata. The O.Ps. have also contended that the selection of Daya Ram was made because, he had better academic career. Therefore, notwithstanding the fact that the applicant was a resident of village Barahata, the selection of Daya Ram in our opinion cannot be assailed.

5. It is also surprising that the applicant continues to be in possession of the government property without being selected for the post for which an F.I.R. has been lodged against him. If so, we would like, the Opposite Parties to take stringent measure to recover the same. No person can be allowed

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~~allowed~~ to retain the government property under the garb that he holds the office.

6. In the result, this application is dismissed without any order as to costs.

*L. Lawrence*  
MEMBER (A)

*Dr. Aggarwal*  
MEMBER (J) 14.12.90

(sns)  
December 14, 1990.  
Allahabad.