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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 557 of 1988.

Srilal Gupta Applicant.

Versus

Union of India & another Respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble D.K. Agrawal, J.M.

(Delivered by Hon. D.S. Misra, A.M.)

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for issue of a direction to the respondents to appoint the applicant upon the post of Branch Post Master in village Post Office Singaha.

2. The applicant has based his claim on the basis of the letter dated 22.7.1980 (photo-copy annexed as Annexure 'II-A') which is said to have been issued on behalf of the Senior Superintendent of Post Offices (Sr.SPO), Deoria. In this letter it is stated that the name of the applicant has been kept in the waiting list for appointment as Branch Post Master and that he should make an application whenever such a vacancy occurs in any Post Office in the neighbourhood.

3. In their reply the respondents have contested the authority of the person, who has signed this letter on behalf of Sr.SPO, Deoria. They have also stated that under the Extra-Departmental Agents (Conduct & Service) Rules, 1964 all vacancies of E.D. Agents are filled in after making selection from amongst the candidates recommended by the Employment Exchange and there is no question of the applicant being given appointment on the basis of the above-mentioned letter, which was issued by a Head Clerk without the knowledge of Sr.SPO, Deoria. It is also stated that the above mentioned letter does not confer any right of appointment

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to the applicant. The respondents also state that there is no provision of maintaining any waiting list under the E.D.A. (Conduct & Service) Rules, 1964.

4. We have heard the learned counsel for the parties. The learned counsel for the applicant could not produce any rule under that which the respondents are required to maintain a waiting list or/ they have the authority to make appointment of the applicant without considering the candidature of other persons whose names are also recommended by the Employment Exchange. The contention of the learned counsel for the applicant is that the applicant had worked as E.D. Agent from 11.8.1975 to 9.5.1980 and had thus acquired a right to be appointed on the post of Extra-Departmental Branch Post Master (EDBPM), Singaha, which had again fallen vacant. The respondents have stated that this was a short-term vacancy due to the permanent incumbent of this post, Raj Bahadur Sahi, being involved in a criminal case under Section 409 of the Indian Penal Code. Raj Bahadur Sahi, EDBPM, Singaha, was again involved in a case of mis-appropriation of Money Order and he was ordered to be put off duty vide order dated 28.1.1988. This vacancy was advertised and applications were invited through the Employment Exchange vide notice dated 10.2.1988 (copy Annexure 'CA-I'). In the said letter names of candidates were invited, but the applicant did not apply for the same. Instead, he moved an application dated 2.2.1988 through which he claimed his appointment on the post of EDBPM, Singaha on the ground of previous service rendered by him. In response to the said letter three applications were received, but none of the candidates were found fit and a fresh advertisement has been issued inviting applications directly from the villagers through the Village Pradhan. The last date for receipt of applications was 5.5.1988. In response to the second advertisement, several applications had been received including the application of the applicant. The respondents have stated that the selection of the candidates

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is still under process and the same shall be finalised after scrutinising all applications according to E.D.A.(Conduct & Service) Rules, 1964.

5. It is contended on behalf of the respondents that there is no occasion for the applicant to approach this Tribunal at this stage and the application is premature and liable to be dismissed on this ground alone.

6. We have considered the matter and are of the opinion that there is sufficient force in this contention of the respondents. It appears that when the case was admitted for hearing, ~~and interim~~ the following interim order was passed :

"As regards the interim relief, the applicant was on the waiting list. Some selection is going to be held in near future. The respondents are directed to consider the applicant's case also at the time of appointment."

In view of the fact that the respondents have offered to consider the case of the applicant along with others, there is no occasion to issue any directive to the respondents to give appointment to the applicant without considering his suitability for the post. The learned counsel for the applicant invited our attention to the instructions of D.G., P & T. contained in para 2 of his letter No. 43-4/77-Pen., dated 18.5.1979, which states as follows :-

"2. Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED Agents discharged from service, prescribed in D.G., P & T. Letter No. 43-4/77-Pen., dated 23.2.1979."

We hope that while making selection the respondents will keep in view the instructions contained in the above-mentioned letter of D.G., P & T. and any other subsequent instruction on this subject while making selection for the post of EDBPM, Singaha.

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7. The application is disposed of accordingly without any order as to costs.

Dr. C. S. Rao

MEMBER (J).

Dated: May 5th July, 1989.

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MEMBER (A).