

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration O.A.No. 867 of 1988

Lava Kumar Rai Applicant

Versus

Sr. Superintendent Post Azamgarh
Division, Azamgarh and another

... .. Respondents

Hon'ble Mr. Justice K.Nath, V.C.
Hon'ble Mr. A.B.Gorthi, A.M.

(By Hon'ble Mr. Justice K.Nath, V.C.)

This application under section 19 of the Administrative Tribunals Act 1985 is for qua-shing the order dated 23.5.1988 by which Respondent No. 2, Smt. Vimla Devi was appointed as Extra Departmental Branch Post Master, Bibipur, Distt. Azamgarh and also for a direction to Respondent No. 1 to appoint the applicant in that place.

2. The facts are not in dispute. Counter and Rejoinder Affidavit have been exchanged and we have heard Learned Counsel for the parties. On vacancy arising on 1.1.1988, the concerned Employment Exchange was approached to sponsor names. 12 names including those of the applicant and Respondent No. 2 were received. Ultimately orders for appointment of Respondent No. 2 were passed.

3. It is admitted that the educational

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qualifications of both the candidates are the same namely High School pass for the purposes of the selection. The applicant's grievance is that in the High School examination, the applicant had secured 320 marks against 228 of Respondent No. 2 and, therefore, the applicant should have been selected rather than Respondent No. 2. The case of the respondents is that according to the rules the requisite qualification is only class VIII with preference for High School and that since both were High School, the Appointing Authority was quite competent to select either of them and this court will not interfere with the selection process.

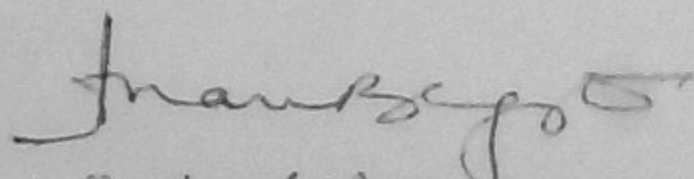
4. However, the Counsel for the applicant refers to annexure No. R-I, a letter dated 11.7.85 of the Director of Postal Services, Allahabad to the Senior Superintendent Post Offices, Azamgarh in respect of selection of a E.D.B.P.M. of Post Office Aswania in that district. The letter mentions that both the candidates were Matriculate and were therefore, equally eligible for being considered but the candidates with higher marks in the Matriculation examination had to be preferred so as to ensure equality of opportunity to both or all as the case may be. The Counsel for the applicant says that since the selection was ultimately directed to be made in favour of the candidate having higher marks in the examination, there is no reason why the

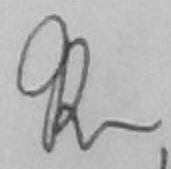
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same should not have been done in the present case. Learned counsel for the respondents says that the letter contains a decision in an individual case and is not a rule of universal application.

5. According to the applicant he had made a representation to the Senior Superintendent of Post Office, Azamgarh Region, at Azamgarh, but that went in vain; according to the respondents no such representation was received. There is substance in the contention of Counsel for the ~~respondent~~ that comparative merit is not to be dealt with by this Tribunal and that it is essentially a departmental matter. We think that the interest of justice would be served if the applicant is given an opportunity to make a representation to the competent authority to consider and pass appropriate orders in the matter.

6. This application is disposed of with the observation that the applicant may make a suitable representation to the competent authority in respect of the dispute over appointment to the post of EDBPM Post Office, Bibipur, District Azamgarh within two weeks from the date of receipt of a copy of this judgment and it is hoped that the competent authority will dispose of such representation within a period of two months from the date of receipt thereof without insisting upon the delay which may have been caused in making the representation.


Member(A)


19.3.91
Vice Chairman