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OPEN COURT

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 29th day of January, 1996
Original Application No.1024 of 1989

DISTRICT : Gorakhpur

CORAM:-

Jawahar Lal Vishwakarma,
Son of Shri Jeetai Prasad,
R/o Village & Post Office Balwa Tikar,
Maharajganj, District-Gorakhpur.

(By Sri Sheo Kumar, Advocate)

..... Applicant

Versus

1. Union of India through
Post Master General,
Uttar Pradesh, Lucknow.
2. Senior Supdt. Post Offices, Gorakhpur.
3. Sub Divisional Inspector (U.P. Mandaliya Nrikshak),
Maharajganj (new District) Gorakhpur.
4. Shri Ram Bhawan Prasad son of
Shri Ram Pyare R/o Village & Post-
Balwa Tikar (Via Bhintauli Bazar),
Maharajganj-273302

(By Sri N.B. Singh, Advocate)

..... Respondents

O R D E R (O r d e r)

By Hon'ble Mr. S. Das Gupta, A.M.

In this application filed under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has
challenged the appointment of Respondent No.4 on the post
of Extra Departmental Post Master (EDBPM for short) in the

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Village Post Office Balwa Tiker District Maharajganj.

2. The applicant was one of the six persons nominated by the Employment Exchange for consideration against appointment on the post of EDBPM. It has been stated that the applicant was a First Divisioner in the High School Examination. Despite this, the respondent no.4, who was also a candidate sponsored by the Employment Exchange, was selected by the respondent in utter disregard to the better claim of the applicant. The applicant has stated that even before the final selection was made, he had represented to the respondents that he was a better candidate but no heed was paid to him and his claim was rejected on the ground that he did not have suitable house in which the Post Office could have been operated.

2. The respondents have contested the claim of the applicant by filing a counter affidavit. The case of the respondents is that all the six persons were sponsored by the Employment Exchange including the applicant and respondent no.4, were properly considered based on the enquiry report given by the S.D.I. with regard to the property, income and other necessary qualifications of the candidates. It was revealed from the report that the applicant did not possess suitable accommodation to locate the post office. As this was an essential requirement for appointment to the post of EDBPM, the applicant could not be selected to the post while respondent no.4, who was otherwise qualified in all respects, was selected. They have also denied the applicant's allegation that the respondent no.4 did not submit any income certificate. It has been stated by the respondents that he did produce a certificate showing his income as Rs.350/- per month.

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3. The applicant has filed a rejoinder affidavit in which his earlier assertions have been reaffirmed. With regard to the specific contention of the respondents made in Para 15 that he could not be selected due to non-possession of suitable accommodation, the applicant has stated in Para 13 of the rejoinder affidavit that the Annexure-2 of the O.A. and Annexure-RA-2 of the rejoinder affidavit would clearly show that the applicant had a suitable house and, therefore, his non-selection was malafide. We have gone through the said Annexures. Annexure-A-2 of the application is a photocopy of the certificate stated to have been issued by Gram Panchayat to the effect that the applicant possesses a pucca house, with boundary walls. It is not clear from the averments whether said certificate was before the respondents at the time when the applicant was considered for the post of EDBPM. Moreover, it is clearly stated by the respondents that the report of the S.D.I. indicated that the applicant did not possess any suitable accommodation. There is nothing in the averments of the applicant to show that the said S.D.I. in any manner was biased against the applicant. In fact, the documents annexed as RA-2 tend to indicate that respondent no.4 did possess land ~~also~~ do not show in any conclusive manner that the applicant did possess a suitable house in which ^{Not Offered} ~~services~~ could have been operated. Once the competent authority has got the matter verified and found that the applicant did not possess a suitable house, we see no reason to disbelieve the same and as the possession of a suitable house from which the business can be operated is an essential condition for selection of as EDBPM, we find nothing wrong in the applicant being passed over in favour of respondent no.4, who is stated

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to have necessary accommodation available with him.

4. In view of the foregoing, we find no merit in this application. The same is, therefore, dismissed. The parties shall, however, bear their own costs.

J. H. Kamm
Member (J)

W. R. Member (A)

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