

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No. 256/90

Ajai Kumar Srivastava

Applicant.

versus

Union of India & ors.

Respondents.

Hon. Mr. Justice K. Nath, V.C.
Hon. Maj. Gen. A.B. Gorthi, A.M.

(Hon. Maj. Gen. A.B. Gorthi)

Ajay Kumar Srivastava, the applicant, aggrieved by his non-selection for the post of Extra Departmental Branch Post Master (E.D.B.P.M.) of village Bhol, Kanpur District, has made this application under section 19 of the Administrative Tribunals Act, 1985, with a prayer that the appointment order (Annexure A-7) issued by Superintendent of Post Offices, Kanpur Division (Respondent No. 1) in favour of one Vinay Kumar (Respondent No. 3) be quashed. He also sought an interim relief to the effect that he should be allowed to continue as the Substitute Branch Post Master of Village Bhol, which appointment he assumed on the retirement of his father from the said post on 31.3.89. This interim relief having been granted to him by this Tribunal on 26.3.90, he continued to function as the E.D.B.P.M., although as a substitute, while the selected candidate Vinay Kumar waits in the wings.

Justice K. Nath

2. When the post of E.D.B.P.M. at village Bhol fell vacant, Respondent No. 1 requested the Employment Officer, Kanpur (Respondent No. 2) to sponsor names of suitable candidates. Having received no response from Respondent No. 2 within 30 days, as/^{per}laid down instructions, Respondent No. 1 promulgated a public notice inviting applications from eligible candidates. Relevant eligibility conditions may be mentioned here:

- a) Educational qualifications: VII Standard (Matriculates will be preferred).
- b) Must have adequate means of livelihood.
- c) Must be a permanent resident of the village where the post office is located.
- d) Must have immovable property in the village.

3. The last date for receipt of applications was 30.4.89. After scrutinis^{-ng} all the applications, which included those submitted by the applicant and Vinay Kumar (Respondent No. 3) besides 11 others, Vinay Kumar (Respondent No. 3) and one Rajendra Kumar were found suitable. Their revenue, police and such other verifications were carried out and finally Vinay Kumar (Respondent No. 3) was selected.

4. While the aforesaid selection process was in hand, a letter dated 5.7.89 (Annexure A-2) was addressed by Respondent No. 1 to the Employment Officer (Respondent No. 2) asking if any candidates were sponsored in response to his earlier demand. The Employment Officer, instead of replying either in the affirmative or negative, then sponsored the names of 3 candidates vide Annexure A-3 dated 26.7.89. Applicant's name

Anand Singh

figured at the top of the list, which did not include the name of Respondent No. 3. Since this list came much after the last date for receipt of applications from the open market, Respondent No. 1 decided to ignore it. Accordingly, the impugned appointment order dated 6.3.90 (Annexure A-7) was issued in favour of Vinay Kumar, Respondent No. 3.

5. The applicant and the successful candidate (Respondent No. 3) traded before us claims and counter claims; allegations and counter allegations, each asserting that he is eligible and that the other is not. We have examined the various documents relied upon by each of the claimants, but it is enough to mention that we have found sufficient material in the counter affidavits of Respondents No. 1 and 3 and the annexures thereto, to convince us that Vinay Kumar (Respondent No. 3) was eligible in all respects for the post of E.D.B.P.M. He is a Matriculate, owns a house and owns a shop in village Bhol of which he is a permanent resident.

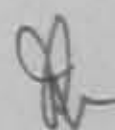
6. The applicant's counsel vehemently urged before us that since Respondent No. 3 was not sponsored by the Employment Officer (Respondent No. 2), he could not have been at all considered for selection. The explanation offered by Respondent No. 1 that since Respondent No. 2 failed to furnish the list of the candidates within 30 days of demand, applications were sought through public notice and that the list furnished by Respondent No. 2 on 26.7.89 long after the last date for receipt of application expired was



therefore, ignored. We do not find any irregularity in the manner in which Respondent No. 1 carried out the selection process. Indeed, the Employment Officer, Respondent No. 2 over stepped his functions by sponsoring the names on 26.7.89 in as much as the Respondent No. 1 only wanted to know from him whether he had already sponsored some names or not on the initial requisition dated 24.2.89; he had not been asked to sponsor names afresh. The significant point is that the applicant too was in fact considered for the post alongwith others including respondent No.3, but the latter was selected. In the absence of any specific mala fides or serious infirmities in the selection made by respondent No.1, we are not inclined to interfere with the result of the said selection.

7. We, therefore, dismiss the application. Interim order passed on 26.3.90 is hereby vacated. Parties will bear their own costs.


Member (A)


Vice Chairman

Dated the 11 March, 1991.

(sa)

