

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

D.A. No:

T.A. No:

156 /99

DATE OF DECISION: May 13, 1991

MaKesh Kumar Shukla PETITIONER.

Smt. R. M. Depalayay ADVOCATE FOR THE
PETITIONER

VERSUS

Union of India & Others RESPONDENTS.

Smt. C. S. Tripathi ADVOCATE FOR THE
RESPONDENTS.

PROGRAM

The Hon'ble Mr. Justice R. K. Varma

The Hon'ble Mr. Usha Sen

- 1. Whether Reporters of local papers may be allowed to see the judgement?
- 2. To be referred to the Reporter or not?
- 3. Whether their Lordships wish to see the fair copy of the judgement?
- 4. Whether to be circulated to all other Bench?

U. L. L.
SIGNATURE

JAYANTI/

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Original Application No.150 of 1992

Mukesh Kumar Shukla

... Applicant

Versus

Union of India & others

... Respondents

HON'BLE MR. JUSTICE R.K.VARMA- VICE CHAIRMAN
HON'BLE MISS USHA SEN- MEMBER (A)

(By Hon'ble Miss Usha Sen- A M)

This application is directed against the order dated 17-7-1991 of the Superintendent of Post Offices, District Jaunpur (Annexure-A 3) by which one Shri Sheo Shanker Rai, respondent no.5, was appointed as Extra Departmental Runner (EDR) in the Extra Departmental Post Office (EDPO) at Kudda in account with Muftiganj Post Office in the District of Jaunpur instead of the applicant. He has sought the relief that he should be appointed in place of respondent no.5.

2- Shri Sheo Shanker Rai was initially appointed to the post mentioned above vide a memo of the Sub-Divisional Inspector (P) dated 20.6.1988 after getting names of 8 candidates from the Employment Exchange. One of the conditions of recruitment is as below:

"E.D. Mail Carriers Runners and Mail peons should reside in the station of the main post office or stage wherefrom Mail originate/terminate i.e. they should be permanent residents of the delivery jurisdiction of the post office."

It is stated by the respondents no.1 to 4 (hereafter referred to as respondents) that the mail for Kudda EDPO originated and terminated ^{at} ~~from~~ Muftiganj P.O. Keeping in view this factor and other conditions for recruitment respondent no.5 was considered as the most suitable candidate and so appointed. On 26-7-1988 a complaint was received from one of the candidates viz., Shri Manoj Kumar by the Superintendent Post Offices, Jaunpur Division, that he should have been appointed in place of respondent no.5 as he was better qualified. The complaint was enquired into and it was found that Shri Manoj Kumar was a superior

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candidate and also a resident of Muftiganj wherefrom mails originate and terminate while Shri Sheo Shanker Rai was a resident of village Naipura which is 2.4 kms. from Muftiganj. Hence it was ordered by the Divisional Superintendent on 8-9-88 that the appointment of Shri Sheo Shanker Rai is cancelled. In compliance with this order the Sub-Divisional Inspector, Karat, cancelled the appointment of respondent no.5 and appointed Shri Manoj Kumar Rai vide his memo dated 20-9-88. Thereupon respondent no.5 filed a petition in this Tribunal which was registered as O.A.No.1106 of 1988. On this petition an order was passed on 14-5-91 that in the conditions for recruitment provided in the Extra Departmental Agents Service and Conduct Rules it has not been mentioned that longer or shorter distance from the Post Office wherefrom mails originate/terminate should be one of the guidelines to be followed while selecting candidates for appointment. Further if this was a factor for consideration how was it ignored at the time of the initial appointment of respondent no.5. In any case if the department wanted to review the matter of appointment they should not have removed Shri Sheo Shanker Rai without giving him an opportunity to show cause why he should not be removed. Hence it was ordered that Shri Sheo Shanker Rai should be put back in office and given an opportunity to put forth his defence before a final decision is taken.

3- *In compliance with the above mentioned judgment*
 3- *Thereupon the department terminated the services of Shri Manoj Kumar Rai and reappointed Shri Sheo Shanker Rai vide the memo of the Sub-Divisional Inspector (P) dated 10-6-1991. After giving Shri Sheo Shanker Rai an opportunity to put up his defence statement regarding*

cancellation of his appointment and on examining his statement the department decided vide the order of the Superintendent of Post Offices i.e. Divisional Superintendent dated 17-7-1991 that Shri Sheo Shanker Rai was in fact the most suitable candidate and so the proposal for termination of his appointment should be dropped. Copies of this order were endorsed to Shri Manoj Kumar Rai and Shri Mukesh Shukla i.e. the applicant of the present O.A. being considered by us. Aggrieved by this decision of the Divisional Superintendent Shri Manoj Kumar Rai preferred a SLP in the Supreme Court which was registered as SLP No. 13852 of 1991. On this SLP the Hon'ble Supreme Court vide its judgment dated 6-11-1992 held that the applicant's contention that he had been working on the post for nearly three years having been appointed on account of his having higher merit than Shri Sheo Shanker Rai and to terminate his services merely because the matter regarding appointment to the post was to be reviewed as per the order of this Tribunal dated 14-5-1991 (against which the SLP was filed) was most unjust, merited acceptance. Hence the appeal was allowed and the judgment of this Tribunal was set-aside and the postal authorities were directed to review the matter regarding who between Shri Sheo Shanker Rai and Shri Manoj Kumar Rai deserved to be appointed to the post and take a final decision within 6 months from the date of delivery of that judgment.

4- As regards the applicant of this O.A. viz. Shri Mukesh Shukla the respondents have stated that his case was also considered for appointment but it was found that he belonged to the delivery jurisdiction of Kudda B.O. whereas the mail of Kudda B.O. originated/ terminated at Muftiganj Sub- Post Office. Since

xxxxxx ~~Since~~ candidates at this point were available the Sub-Divisional Inspector appointed a person of the originating and terminating point rather than one living at a longer distance from this point. The grounds on which the applicant has challenged the appointment of both Shri Sheo Shanker Rai as well as Shri Manoj Kumar Rai are inter alia that neither of the two belongs to the delivery jurisdiction of the Kudda B.C. and he is also better qualified educationally than these two. The respondents have countered these arguments by stating that both the other named individuals do belong to either the delivery jurisdiction of Kudda B.C. or the ^{s. stage} P.D. from which the mail originate/terminates. They have also stated that educational qualification is not the only consideration for selection. On the other hand no standard for education has been prescribed. The candidate should only have a sufficient knowledge of the regional language.

5- We find nothing available on record to indicate as to what criteria or guidelines have been prescribed by the postal authorities for determining the comparative merit of all eligible competing candidates for the post of (EDR) Extra Departmental Runner. The E.D.R. Service and Conduct Rules lay down the conditions of eligibility. However, there ought to be a kind of a standard criteria which normally should be followed for determining the merit of each candidate who is otherwise eligible for appointment and making the final selection of the most meritorious amongst them. Actually the facts of the present case would show that the department seems to be changing its criteria each time an appointment or termination and reappointment on receipt of complaints is made. For example at the time of the initial appointment of Shri Sheo Shanker Rai

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that he lived 2-4 kms. from Muftiganj Post Office from where mail originated/terminated did not weigh with them and he was considered most suitable for appointment. Later on receipt of a complaint from Shri Manoj Kumar his appointment was cancelled and Shri Manoj Kumar was appointed on the grounds that he was superior to Shri Sheo Shanker Rai and also because he resided at Muftiganj wherefrom mails originated/terminated whereas Shri Sheo Shanker Rai resided at village Naipura which was 2-4 kms. away from there. Still later vide the Divisional Supdt. memo of 17-7-1991 ibid Shri Sheo Shanker was reappointed cancelling the appointment of Shri Manoj Kumar by not giving weightage to the consideration of distance from the Muftiganj Post Office. Now the respondents further state in their counter that educational qualification is not the only consideration for selection and in fact no standard of education is laid down for such appointment. In view of these averments we are unable to understand on what grounds Shri Manoj Kumar was considered superior to Shri Sheo Shanker Rai and for that matter to Shri Mukesh Shukla, the present applicant since while appointing Shri Manoj Kumar ^{by} ~~on~~ the orders dated 8-9-88 of the Divisional Superintendent it was mentioned that apart from Shri Manoj Kumar residing at Muftiganj he was also "Superior" to Shri Sheo Shanker Rai. Further if Shri Manoj Kumar was then considered "Superior" also how was it that he was later not so considered when Shri Manoj Kumar's appointment was subsequently cancelled and Shri Sheo Shanker Rai reappointed vide the orders of the Divisional Superintendent dated 17-7-91 ibid ? All this shows a sorry state of affairs in the postal department. In fact we have been getting several petitions in this tribunal in the matter of appointment, termination of appointment on receipt of complaints and reappointments to the same post in respect of various posts of Extra Departmental Agents. The

matter requires serious attention of the authorities responsible for this state of affairs who should review the matter and issue suitable instructions regarding the mode and criteria of selection of Extra Departmental Agents and take suitable measures to see that appointments are made initially itself to the most meritorious from amongst eligible candidates in accordance with the criteria prescribed for determining the comparative merit. We direct the respondents to undertake this review and issue suitable instructions as mentioned above within six months of the communication of this order.

6- Now coming to the point regarding selection of Shri Mukesh Kumar Shukla, the present applicant, to the post of Extra Departmental Runner, Kudde B.O. in preference to Shri Sheo Shanker Rai and Shri Manoj Kumar Rai we consider that since there appears to be no standard criteria for selection as would emerge from our examination of the case the appointment to this post may be reviewed in its entirety and a selection made finally from amongst the 8 candidates who had been sponsored by the Employment Exchange for this post vide their letter of 4-6-88 (para-6 of counter refers) on the basis of the criteria to be adopted after the matter regarding fixation of such criteria is reviewed and finalised by the authorities competent to do so in the postal department as stated in the preceding paragraph. This final selection should be made within a period of seven months from the date of receipt of this order. While making this order we have kept in our view that the eligibility conditions for recruitment would remain unchanged but the criteria for selecting the best candidate only requires to be fixed objectively as aforesaid instead of the ^{present selection where} ~~present selection where~~ each time some fresh criteria is followed for selection.

7- with these directions the O.A. is disposed of. There will be no order as to costs.

Utkal Sinha
MEMBER (A)

DATED: Allahabad May 13th 1994.

(IS PS)

R. K. Varma
VICE CHAIRMAN
