

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

D.A. No: 1827/92
T.A. No:

DATE OF DECISION: 4-4-94

Kamala Kant Pandey

PETITIONER.

ADVOCATE FOR THE
PETITIONER

LL JJ
V E R S U S

Union of India & ors.

RESPONDENTS.

ADVOCATE FOR THE
RESPONDENTS.

C O B A M

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

The Hon'ble Mr. T. L. Verma, J.M.

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?

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SIGNATURE
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JAYANTI/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1827 of 1992

Kamla Kant Pandey Applicant.

Versus

Union of India & ors. Respondents.

Hon'ble Mr. S. Das Gupta, Member-A

Hon'ble Mr. T.L.Verma, Member-J

(By Hon'ble Mr. T.L.Verma, J.M.)

This application has been filed for quashing the Memo dated 30.11.1992 (Annexure-1) whereby applications have been invited for filling up the vacancy of Up Dakpal of village Katra Gulab Singh in the district of Prapatgarh.

2. The facts of the case shortly stated are that the respondent No. 2 by his letter dated 27.7.1992 requested the employment exchange to sponsor the names of minimum 3 and maximum 5 candidates belonging to village Katra Gulab Singh for appointment as Up Dakpal. The employment exchange sponsored the names of the applicant Kamla Kant Pandey and 4 others. The candidates whose names were sponsored by the employment exchange were asked to furnish necessary information by 27.9.1992 vide Annexure-1 to compilation No. 2. The applicant furnished the required information by his letter (Annexure-2). It has been alleged ^{involving applications for appointment on the said post,} that a fresh notice has been issued with an ulterior motive by respondent No. 2, to appoint his own candidate, without processing the names of the candidates sponsored by the employment exchange.

3. The respondents while denying the allegation of the applicant have stated that ~~none~~^{the} on inquiry, by the SDI, none of the candidates sponsored by the employment exchange was found to be local resident of Katra Gulab Singh where the post office is situated and accordingly on finding the candidates sponsored by the employment exchange not eligible, the vacancy was notified through public advertisement according to the instructions contained in DG & P&T letter No. 45-22/71/SPB-1/Pen dated 4.9.1982 and that the process for appointment on the said post was ^{on} in progress.

4. The first question that arises for consideration is whether the applicant was disqualified on the ground that he was not permanent resident of Katra Gulab Singh, ~~and that he has furnished necessary document and certificate as required~~^{and that he has furnished necessary document and certificate as required}. In this connection reference may be had to Annexure-6 which is enclosure to Annexure-3 of the application addressed to Senior Superintendent post offices Prapatgarh. Annexure-6 is the certificate granted by Senior Administrative Officer Collectorate, Prapatgarh stating that the applicant Kamla Kant Pandey son of Shyam Sunder is the permanent residents of Sarai Bhupat Paragna Tehsil District Prapatgarh. It is stated that Katra Gulab Singh is part of the revenue village Sarai Bhupat. This certificate along with copy of Kathoni (Annexure-9) and family register and Voters List (Annexure RA-1) (Annexure-12) in our opinion is sufficient to establish that the applicant is resident of village Sarai Bhupat which comprises of the village Katra Gulab Singh.

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The respondents have also filed Annexure CA-1 to CA-4 and stated that the applicant is resident of Pure Toraie and not Sarai Bhupat. Annexure CA-1 is the voters list, Annexure CA-2 is certificate granted by the organiser Nehru Yuvak Kendra Prapatgarh, Annexure CA-3 is the statement of the applicant given to SDI and Annexure CA-4 is the extract of Khotani of village Pure Vashnav. In all these documents, the applicant has been shown as resident of Pure Toraie. The documents filed by the respondents do not negative the stand of the applicant that he is resident of Sarai Bhupat also and that he has properties in that village. The material on the record in our opinion suggests that the applicant has properties in Pure Toraie and also in village Sarai Bhupat. ~~It is~~ ^{he is} possessing property and residence at both the places in our opinion does not disqualify him for appointment as Up Dakpal of Katra Gulab Singh.

5. On a consideration of the rival contention and examination of documents filed, we are satisfied that the applicant was residing in Sarai Bhupat at the time his name was sponsored for appointment as Up Dakpal and was eligible for being considered for appointment as Up Dakpal.

6. In view of the foregoing conclusion, the second question that arises for consideration is whether the respondent No. 2 was justified in inviting fresh applications by notifying the vacancies through public advertisement. In this connection, reference to Rule 12 of the recruitment Rules for Extra Departmental staff in postal department may be made. The rule reads as follows;

"It was ordered above that ED Agents should be appointed through the employment exchange of the area. Several instances of nomination of only one candidate by the employment exchange have come to the notice of this Directorate. In such cases, the resultant selection process gets totally devoid of any element of completion. It has, therefore, been decided that in future sponsoring of at least three candidates by the employment exchange should be insisted upon. In case of any difficulty in this regard, the matter may be taken up with the Director of Employment Exchanges of the State Government concerned. Normally they have instruction to send a panel of candidates not less than thrice the number of posts notified to them. In the event of the employment exchange failing to sponsor the minimum number of candidates, the vacancy should be notified through public advertisements and while making the final selection, the comparative merit of all the candidates, i.e. those who respond to the notification as also those sponsored by the employment exchange should be taken into consideration."

7. It is an admitted case of the parties that the employment exchange had been requested to sponsor minimum 3 and maximum 5 names for appointment as Up Dakpal Katra Gulab Singh. The employment exchange sponsored 5 names including the name of the applicant. According to the respondents, none except the applicant responded to the notice (Annexure-1) to compilation 2 to furnish necessary information as ^{others} required under Rules. They have not either filed separate application nor have joined the applicant in challenging the impugned order on the ground that they are residents of Katra Gulab Singh as required under Rules. In absence of material to the contrary we are unable to reject the contention of the respondents that the other candidates who were sponsored by the employment exchange are not residents of village Katra Gulab Singh. According to the requirement of the rules ^a minimum of 3 names of eligible candidates should have been sponsored by the employment exchange. The recorded decision of

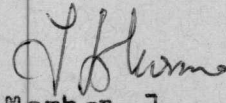
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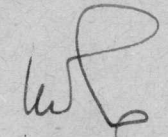
the Government on the question of recruitment of EDA's is that it should be made through employment exchanges and that if the candidates sponsored by the employment exchange are not found suitable as per prescribed condition of eligibility it will be open to the competent recruiting Authority to notify the vacancies through public advertisement and that while making final selection, the comparative merit of all candidates—those who responded to the notification as also those sponsored by the employment exchange if found eligible, should be taken into consideration.

8. It is established from the material on the record that of the 5 candidates sponsored by the employment exchange only 1 candidate that is, the applicant Kamla Kant Pandey responded to the notice and furnished required information with regard to his educational qualification, residence, source of income etc. and others did not furnish ^{the} necessary information. The SDI, — on verification, has found that they are not the residence of village Katra Gulab Singh. It would thus appear that 4 of the 5 candidates sponsored by the employment exchange were not found suitable as per prescribed condition of eligibility. That being so the respondent No. 2 was within his competence to notify the vacancy through public notice. The applicant who has been held by us to be the resident of Sarai Bhupat is entitled to be considered for appointment as Up Dakpal Katra Gulab Singh along with other eligible candidates who have applied in response to the vacancy notified by the impugned notice.

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9. On a careful consideration of the facts and circumstances of the case discussed above, we find that no case for quashing the impugned notice has been made out and ~~this~~ as such this application is deserves to be dismissed and the same is, be and is hereby dismissed. The respondents, however, are directed to consider the candidature of the applicant who have responded to the notification along with other eligible candidates for appointment as Up Dadpal Katra Gulab Singh. There will be no order as to costs.


Member-J


Member-A

Allahabad Dated: 4.4.94

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