

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD.

R.A.No.50 of 95
in O.A.No.1505 of 1992.

Date of Order :

Shashi Kant Upadhyay

...Petitioner.

versus

Union of India & Ors.

...Respondents.

O R D E R

(delivered by Hon'ble Shri Jasbir S.Dhaliwal, J.M.).

This Review Application has been filed by the applicant against the judgment dated 4th April, 1995. Under Rule of circulation, it has come and it has been perused alongwith annexures.

2. The applicant had been appointed on provisional basis on the post of E.D.D.A. on the transfer of one person from the branch Postoffice Dedhgawan Karanpur. Thereafter, steps were taken for appointment of regular incumbent in which the applicant was also one of the applicants. All the applications were examined and respondent No.4 Shri Islam Ali was selected for appointment, and the applicant had challenged his appointment and an order dated 29-10-1992.

3. The applicant claims review on the grounds that he is still continuing on the post on which he was provisionally appointed before regular appointment of respondent No.4, and that the two points i.e. of educational superiority, and respondent No.4 being from the same village where the branch postoffice is situated, have not been correctly appreciated by this Tribunal. He refers

to a case of Tubinder Kumar Vs. Union of India & Ors. as reported in 1994 (2) A.T.J. Page 452.

4. The points raised have been considered. His continuation on the said post till the pronouncement of judgment is no ground to review the judgment. The points of education and Respondent No. 4 belonging to village Dedhgawan Karanpur were duly considered in the judgment Annexure A-1. Power of review can not be allowed to be utilised by an applicant for re-hearing all the matters which had already been considered. That the applicant has a different point of view from the view expressed by this Bench can not be made a ground to review a judgment. The facts and the ratio in Tubinder Kumar's case was in the mind of the court, but the same has no application to the facts of the present case. A Full Bench authority in the case of G.S. Parvati Vs. Sub Divisional Inspector (Postal) & Ors. had been duly considered and discussed.

5. No grounds are made out under the provision of review for review of the judgment. The application is, therefore, dismissed.

Jan 11
(JASBIR S. DHALIWAL),
JUDICIAL MEMBER.

SDG
(S. Das Gupta),
ADMINISTRATIVE MEMBER.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH ALLAHABAD

—
INDEX

IN

REVIEW APPLICATION NO. _____ OF 1995.

IN

ORIGINAL APPLICATION NO. 1505 of 1992.

shashi Kant Upadhyaya - - - - - Revisionist/Applicant.

Versus

Union of India and others - - - - - Respondents/Opps.

sl. no.	Particulars	Pages
1.	Review Application (Stay)	A - B.
2.	Affidavit.	1 - 10
3.	<u>Annexure-A1</u> A copy of the judgment dated 4-4-1994.	11 - 14
4.	<u>Annexure-A2</u> A copy of the Judgment of Tubinder Kumar.	15 - 17
5.	<u>Annexure-A3</u> A copy of the Circular dated 17-10-1993.	18 - 22
6.	Vakalatnama.	23

Date 26-4-95

R. P. Singh
(R. P. Singh)

Place : Allahabad.

Advocate,
Counsel for the revisionist/
applicant

२७२१ अप्रैल १९९५

Diary no 1295/95

S. O. (1) to keep it with file
and put up before Hon'ble
Concer ned
Court for orders
on
Members. &
for Rules. D
Ireq

26.04.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 01.5.95

BENCH ALLAHABAD

REVIEW APPLICATION NO. 50 OF 1995.

(Under Section 22 (3) of the Admn. Tribunal Act)

IN

ORIGINAL APPLICATION NO. 1505 of 1992

(Under Section 19 of the Admn. Tribunal Act)

Shashi Kant Upadhyay - - - - Revisionist/Applicant.

Versus

Union of India and others - - - Respondents/ Opps.

To,

The Hon'ble Vice Chairman and his
Companion Members of the aforesaid court.

The humble application of the applicant
abovenamed showeth as under:-

1. That the Shashi Kant Upadhyay is the
sole revisionist in the abovenoted case as such
he is fully acquainted with the facts of the case
deposed to below.

2. That the facts and circumstances of
the case have been mentioned in the accompanying

शशीकान्त उपाध्याय

B.

-2-

affidavit which is form part of this application.

It is expedient and necessary in the interest
of justice that this Hon'ble Court may be
pleased to allow this application and applicant
on the post of
may not be disturbed from the working as E.D.D.A.

Dedhgawan Karanpur District Varanasi.

P R A Y E R

It is, therefore, most respectfully
prayed that this Hon'ble Tribunal may be pleased
to allow this application and petitioner may not
be disturbed from the working on the post of
E.D.D.A. Dedhgawan Karanpur District Varanasi.

and/ or

It is, further prayed that Hon'ble Tribunal
may be pleased to issue a order or direction to
the respondents to post the applicant somewhere
else given hims benefit the period of four years
service continuously due to 15-4-91 to till date
because no termination order or handover charge
passed by the department, or pass any such other
order which this Hon'ble Tribunal may deem fit
and proper in the circumstances of the case
and interest of justice.

Date 26-4-95

R. P. Singh
(R. P. Singh)
Advocate,
Counsel for the Revisionist.

श्रीमान् उपाध्याय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BENCH ALLAHABAD



AFFIDAVIT

IN

REVIEW APPLICATION NO. _____ OF 1995.

IN

ORIGINAL APPLICATION NO. 1505 of 1992.

Shashikant Upadhyay - - - - - Revisionist/Applicant.

Versus

Union of India and others - - - Respondents, Opps.

Affidavit of Shashikant Upadhyay

aged about 33 years son of Sri

Vikram Upadhyay resident of

village and post office Dedhga-

wan Karanpur, Tahsil, Chandauli

District Varanasi.

(Deponent)

I, the deponent abovenamed do hereby

solemnly affirm and state on oath as under:-

That the deponent is the revisionist in

the abovenoted case and doing pairvi on his behalf

as such he is fully acquainted with the facts of the

case deposed to below.



16/12/94 P-14 3475472

2. That the facts of the case, that the applicant was given provisional appointment on 15-4-91 and took over charge on the post of E.D.D.A. from one Shri Passu Chaubey, who was transferred to Branch post office Vaidhi as open new branch post office. Passu Chaubey belongs to the very village he was posted ten years. As such the post of E.D.D.A. feel vacant and post was clear due to transfer of Passu Chaubey.

3. That after one year the department advertise the post to fillup one regular appointment and sent a requisiton to the Employment office.

4. That the Employment Exchange office Mughol Sarai, Varanasi forwarded the name of the applicant alongwith two others including the name of respondent no. 4 in original application.

5. That on receipt of the name of the applicant and others, the respondent no. 3 directed the applicant that he submit his application.

6. That thereafter the applicant applied

शाशि कान्त उपाध्याय

and sent the application under registered cover no. 751 dated 31-3-92 alongwith the certificates regarding his education qualification, resident as well as character certificate, to the respondents.

7. That the applicant was fully eligible for the post of E.D.D.A. mail carrier and he was working on the post which was a regular post and clear vacancy without considering his condidature the appointment of the respondent no. 4 has been made with oblique motive and against the circulars of the department.

8. That thereafter the applicant moved an application before the Hon'ble Tribunal and got the interim order, dated 21-10-1992 which is quoted as under:-

" Issue notice returnable within two weeks in the meantime the operation of the order dated 7-10-92 (appointment of the respondent no. 4) i.e. Annexure-AI shall remain stayed. List on 4-11-92 for admission."

That on 4th November 1992 when the matter was



शाशि कान्त उपर्याय

taken up and Hon'ble Tribunal has passed the following order.

"Hon'ble U.C. & Srivastava V.C.

Hon'ble K. Obayya A.M.

4-11-92.

Sri C.S. singh learned counsel has put in appearance on behalf of the respondent and prayer for four week time to file counter allowed. Rejoinder if any be filed within two weeks , Thereafter list this case on 22-12-92 for admission/ hearing .

Interim order already passed shall continue till then. "

10. That the opposite party in spite of the various abovementioned interim orders, which are duly communicated to him, has deliberately not implemented the said order and neither supplying the postal artical to the applicant nor paying his salary to him in these hard days. So Revisionist/ reached/at the version of starvation.

11. That aggrieved the behaviour of the department and flouting the order of Hon'ble Tribunal the applicant moved a contempt petition before



मार्ग संकेत

Hon'ble Tribunal within time.

12. That in the meantime no termination order or hand over charge given by the department to the applicant.

13. That it is important to mention here that the interim order is still continued till the date of pronounce of the judgment.

14. That the applicant is being thrown out of employment after four years service continuously due to unfair practice of the department .

15. That the Hon'ble Tribunal has raised ~~him~~ in his judgment two points , first is education , and second is residential , in support of the qualification of the court , the applicant filed a copy of the judgment (~~Tris~~ Tubinder Kumar Vs. Union of India and others A.T.R. 452). In this Judgment the appointment at the post of E.D.D.A. the applicant was regularly appointed as the post of E.D.D.A. after due selection latter , the appointment cancelled on the ground that he secured less marks as compared to respondent no. 3

21/21 9/12 3478072

in matriculation examination. At the relevant time marks obtained in middle standard examination had to be considered for appointment on the post E.D.D.A. , the order cancelling the appointment of the applicant held unsustainable, the applicant entitled to be appointment as the post of E.D.D.A.
WITH Cost.

16. That another point raised residential , the applicant submitted a circular of D.G. Post and Telegraphs, New Delhi dated 17-10-93 . In this circular it is not necessary to post of E.D.D.A. to belong the same village. It is delivery dt. 4-4-1995. jurisdiction. A copy of the Judgment, and a copy of the ~~circular~~ Judgment of Tubinder Kumar, and a copy of the Circular dated 17-10-93 is being annexed herewith and marked as Annexures-1, 2, and 3 to this affidavit respectively.

17. That it is very necessary in the interest of justice that the respondents are restrained from implementing the order till disposed of the review petition.

18. That the Review petition is filed in

शाही कान्त उपाधाय



Hon'ble Tribunal on the following grounds as under :-

— G R O U N D S —

I. Because, since inequality was committed in selection process on the appointment of the respondent no. 4.

II. Because, the Revisionist is still continuing in the post of E.D.D.A. Dehlgawan Karanpur , the charge has not been taken over so far, inspite of the stay order of Hon'ble Tribunal dated 21-10-92.

III. Because, this Hon'ble Tribunal has given no weight to the long service which the deponent has rendered with the department to their entire satisfaction and allowed the application of the plaintiff which has prejudiced the interest of deponent.

IV. Because, the respondents are taking steps to implement the order of the Tribunal which is allowed to be done, the deponent ~~is~~ will suffer irreparable loss.



श्री २१-१०-१९९२

V. Because, the Hon'ble Tribunal has raised in his judgment two points, first point is the Education, and second point is resident , in support of the qualification of the court the applicant filed a copy of the judgment (Tubinder Kumar Vs. Union of India and other A.T.R. 452). In this judgment the appointment at the post of E.D.D.A. the applicant was regularly appointed as the post of E.D.D.A. after due selection letter, the appointment cancelled on the ground that he secured less marks as compared to the respondent no. 3 in matriculation examination. At the relevant time marks obtained in middle standard examination has to be considered for appointment on the post of E.D.D.A. , the order cancelling the appointment of the applicant held unsustainable, the applicant entitled to be appointment as the post of E.D.D.A. with cost.

VI. Because, another point raised residential, the applicant submitted a circular of D.G. Post and Telegraphs, New Delhi dated 17-10-93 . In this circular it is not necessary to post of E.D.D.A. To Belong the same village. It is delivery jurisdiction.



२०२१ अक्टूबर ३०१८

I, the deponent abovenamed do hereby verify that the paragraphs no. 1, 2, 3, of the affidavit are true to my personal knowledge; and those of the contents of paragraphs no. 4-16 of the affidavit are based on perusal of records; and those of paras no. 17, 18, of the affidavit are legal advice; which all I believe to be true; that no part of this affidavit is false and nothing material has been concealed herein.

So help me God.

श्रीकृष्ण कान्त उपाध्याय

(Deponent)

I,

~~Clerk to~~

R. P. Singh Advocate Central Administrative Tribunal
additional bench Allahabad do hereby declare that
the person making of this affidavit and alleging
himself to be the deponent shri Shashi Kant Upadhyay
is the same person who is known to me from the
perusal of records produced by him in this case
before this Hon'ble Tribunal.

R. P. Singh
Clerk Advocate

Solemnly affirmed before me on this 26
day of April 1995 at about 10.00 a.m/p.m.
by the deponent who has been identified by the
aforesaid person.

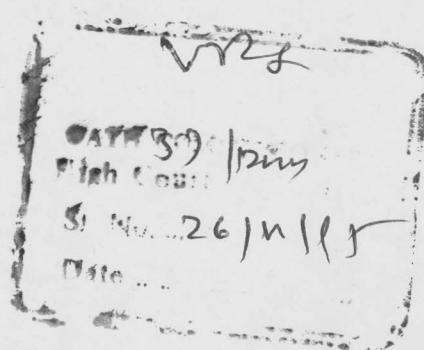
श्रीकृष्ण कान्त उपाध्याय



-10-

Having examined the deponent personally I am satisfied myself that the deponent understood that the contents of affidavit alongwith annexures which have been readover and explained to him by me.

Oath Commissioner.



హైదరాబాద్ కార్ట్ ఓథ్స్ కార్పొరేషన్

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

ORIGINAL APPLICATION NO. 1505 of 1992

ALLAHABAD THIS THE 4th DAY OF APRIL

Hon'ble S. Das Gupta, Member(A)
Hon'ble Jasbir S. Dhaliwal, Member

Shashi Kant Shadhyay S/o Sri Bikrama Upadhyay
A/a 30 year R/o Village and Post Office
Karanpur, Chandausi, District Varanasi
Working as D.A. cum Mail Man B.O. De
District Va. asi.

APPLICANT

BY ADVOCATE R. P. SINGH

Versus

1. Union of India through the Director General, New Delhi.
2. Senior Superintendent Post Offices, Varanasi.
3. Sub-Divisional Inspector, Chandauli.
4. Islam Ali, o Abdual Ali, R/o Village Office, Dedhgawan Kamalpur, Varanasi.

RESPONDENT

BY ADVOCATE S. C. SINGH

ORDER

By Hon'ble Mr Jasbir S. Dhaliwal, Member

Through this petition, petitioner challenges the appointment of respondent no. 4 as regular E.D.D. Mail man, Chandauli. He pleads that he was given the post of D.D./E when one Shri Madho Chandra was transferred from this branch on 11.10.1991. He continued working there till the impugned order was passed on 29.10.1992.



12
:: 2 ::

of 3 persons including that of the applicant were sent by the employment exchange for consideration of appointment to the said post.

The petitioner claims that the respondent no.4 has been wrongly appointed when he had experienced of working as well as he had higher marks than respondent no.4 in High School and Intermediate. He has annexed annexure 3, 4 and 5 in support of his claim.

2. The respondents in their counter-

reply have claimed that the petitioner was appointed in the year 1991 as one Sri Dassu Chauhary had vacated the post and appointment of the petitioner was a Stop Gap Arrangement till regular appointment was made. The respondents after getting permission for regular appointment had sent a requisition to the Employment Exchange, which had sent the names of 3 persons including the name of the petitioner. Their applications were processed and finding that Islam Ali, respondent no.4 had obtained higher marks in the middle and 10th class than the petitioner and finding that he belongs to the village where the post existed and that the petitioner was a non-local man, the respondent no.4 was selected and appointed and since then he has been working on the said post. They have

Please do

..... pg. 3/-

pledged that appointment of respondent no.4 was on merit. The appointment of the petitioner was terminated w.e.f. 29.10.1992 when the regular selected person was appointed.

3. The petitioner has cited G.S. Parvati Vs. Sub.Divisional Inspector(Postal) and others reported in (1993)1 A.T.J. page 614 to argue that the experience gained as provisional E.D.A. should be given weightage in favour of the petitioner. This aspect has been considered by this Court. The ratio of the authority cited is that due weightage is to be given to experience as provisional E.D.A. but, such experience will not be only decisive factor for selection and other relevant factors are to be taken into account. In the present case, the post to which appointment was to be made, carries the minimum qualification of middle pass. If, person has got higher marks in VIIth class, he has to be given preference. The pleadings in the counter reply shows that respondent no.4 had higher marks than that of the petitioner both in VIIth class and in the High School Examination. It is also recognised that for E.D.A., local person is given preference. The certificates furnished by the petitioner indicates only that he had been keeping his residence in the concerned village because of



14. 7 :: 4 ::

his employment there whereas respondent belongs to the same village.

The appointing authority has taken into consideration all the factors. Court finds that no fault can be found in the selection of the respondent no.4 in preference to the petitioner who had only one factor in favour, whereas the other were in favour of the said respondent. This petition is, therefore, dismissed having no merits. No order as to costs.

Member(U)

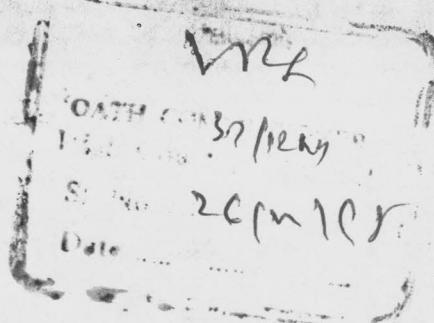
Member(A)

/M.M./

TRUE
COPY

D. S. Deoey
Secretary
District
Court
Alibag

Attached
copy
R. P. Singh
Date



he was not informed at the time of absorption as Senior Clerk about the change in his earlier conditions of service, in our considered view, is legally misconceived. We have already referred to the judgment of a Constitution Bench of the Apex Court in Roshan Lal Tandon's case (*supra*) that the Govt. employees are governed by rules as amended from time to time and there is no requirement that every time he changes his post, he is required to be informed specifically about the terms and conditions which would be applicable to him.

6. In the light of what is stated above, we are of the considered view that this OA is devoid of merit and the same is accordingly dismissed, leaving the parties to bear their own costs.

CENTRAL ADMINISTRATIVE TRIBUNAL
(CHANDIGARH BENCH)
(CIRCUIT AT SHIMLA)
O.A. No.1108/HP/1993
Decided on 9.8.94

Tubinder Kumar	Versus	Applicant
		Respondents
Union of India and Ors.		

For the Applicant: Shri D.R. Sharma, Advocate
 For the Respondents 1 and 2: Shri V.K. Sharma, Counsel
 For the Respondent No.3: None

PRESENT
 The Hon'ble Shri P.C. Jain, Vice Chairman
 The Hon'ble Shri T.N. Bhat, Judicial Member

Appointment--Extra Departmental Delivery Agent--Applicant was regularly appointed as EDDA after due selection--Later appointment cancelled on the ground that he secured less marks as compared to R.3 in matriculation examination--At the relevant time marks obtained in middle standard examination had to be considered for appointment as EDDA--Order cancelling the appointment held unsustainable--Applicant entitled to be appointed as EDDA with cost.

ORDER (ORAL)

Shri P.C. Jain, Vice Chairman: The grievance of the applicant in this O.A. under Section 19 of the Administrative Tribunals Act, 1985 is that even though he was regularly appointed after due selection as Extra Departmental Delivery Agent (for short 'EDDA') on 5.10.92 (A.N.) in Extra Departmental Branch Post Office, Chowki, by the order dated 11.2.93 (Annexure A/4), yet by the impugned Memo, dated 30.7.93 (Annexure A/1) his appointment has been cancelled and Respondent No. 3 has finally been appointed in his place. He has also impugned the handing over and taking over charge report dated 2.8.93 as at Annexure A/2 by which the charge of the post was taken over from him. He has, therefore, prayed for quashing of the impugned orders at Annexures A/1 and A/2 and for a declaration that he is entitled to continue in service with all benefits, arrears of pay and allowances alongwith interest @ 18% P.A. He has also prayed for that the appointment of Respondent No.3 be set aside.

2. Respondents No. 1 and 2 have contested the O.A. by filing their return.



change in
received.
the Apex
governed
every time
terms and

that this
parties to

Applicant
spondents

ant was
cancelled
at Matriculation
examination
the ap-
DDA with

in this O.A.
though he
very Agent
at Office,
ed Memo.
spondent
e handing
which the
quashing
that he is
allowances
tment of

return.

Respondent No. 3 has also filed a separate reply statement opposing the O.A. No rejoinder has been filed by the applicant.

3. As the pleadings are complete, the case is being finally disposed of at the admission stage itself, with the consent of the parties. We have accordingly perused the material on record & also heard the learned counsel for the applicant & the learned counsel for Respondents No.1 & 2. None appeared for Respondent No. 3.

4. The appointment of the applicant as Extra Departmental Delivery Agent w.e.f. 5.10.92 (A.N.) by the order dated 11.2.1993 (Annexure A/4), after due selection, is not disputed. The only ground for cancelling his appointment by the impugned Memo, dated 30.7.93, (Annexure A/1), as per the stand of the official respondents in their reply statement, is that the applicant was selected without taking into account marks obtained by the candidates in Matriculation examination inasmuch as while the applicant had secured 526 marks out of 950 marks, Respondent No. 3 had secured 553 marks out of 950 marks, and therefore, after the selection of the applicant, when a complaint was made by Respondent No.3 to the higher authorities, it was found on verification that the selection of the applicant was not in accordance with the rules. It is on this account that the appointment of the applicant is said to have been cancelled. Admittedly, no opportunity to show cause was given to the applicant. Further, the learned counsel for the official respondents conceded that at the relevant time the minimum educational qualification prescribed for appointment to the post of E.D.D.A. was only Middle standard, but preference was to be given to those who had passed the Matriculation examination. In this view of the matter, holding the selection of the applicant as irregular on the basis of the comparison of the marks obtained by him and Respondent No. 3 only in the Matriculation examination itself makes the impugned order as legally unsustainable. What should have been done was to compare the marks obtained by the applicant and Respondent No. 3 in the Middle standard examination and therefore to apply the rule of preference for having passed the Matriculation examination. In support of this contention, the learned counsel for the applicant cited the judgment of the Chandigarh Bench of the Tribunal in O.A. 65/HR/1992 in the case of Kamal Singh Vs. Union of India and 3 others, decided on 7.7.93. In that case the appointment of the applicant to the post of Extra Departmental Branch Postmaster was cancelled exactly on the ground that the comparative marks obtained by the applicant and the concerned respondent in the Matriculation examination had not been taken into account by the appointing authority. It is relevant to mention that at that time even for the post of Extra Department Branch Postmaster, the minimum educational qualification prescribed was only Middle pass. In the judgment the reliance was placed on instructions dated 10/17.5.91 according to which for making appointments to the post of EDMPMS, the person who secured maximum marks in the examination which made him eligible for appointment should be preferred provided the other conditions laid down were fulfilled. Learned counsel for the applicant, therefore, contended that the minimum educational qualification being Middle pass, that was the examination which made the applicant eligible and as such the comparative marks obtained in the examination should have been the basis as held in the judgment in OA No.65/HR/1992 ibid. This position is not rebutted by the learned counsel for the official respondents. On this ground also the impugned order at Annexure A/1 cannot be sustained.

5. In the light of the foregoing discussion, the impugned Memo. No. A/Chow



ki/714, dated 30.7.93 as at Annexure A/1 to the extent it cancels the appointment of the applicant to the post of E.D.D.A., Chowki, Sundernagar, is hereby quashed. It is not necessary to quash the handing over charge report of the applicant as at Annexure A/2 because the charge was in fact handed over by him on 2.8.93 (A.N.). Consequently, Respondents No. 1 and 2 are directed to take the applicant back into service as E.D.D.A., Chowki, Sundernagar forthwith, if necessary by terminating the appointment of Respondent No. 3 which cannot be upheld in view of the claim of the applicant being upheld, but not later than one month from the date of receipt of copy of this order. It is made clear that the respondents shall be free to make fresh selection for the above post in accordance with the rules in which the case of the applicant as well as Respondent No. 3 shall also be considered.

6. On the facts and in the circumstances of the case, particularly the fact that the appointment of the applicant was to a post for which fixed allowance was admissible keeping in view the nature of his duties and no such duties were performed by him, the prayer of the applicant for payment of allowances etc. for the period he remained out of job is declined. However, this is a case in which he should be given some costs. These are computed as Rs. 500/-.

CENTRAL ADMINISTRATIVE TRIBUNAL

(HYDERABAD BENCH)

R.P. No.100/93 in O.A. No. 1000/93

Decided on 7.7.94

Mr. R. Ramandhan

Applicant

Versus

Chief Post Master-General of A.P., Hyderabad and Ors.

Respondents

For the Applicant: Mr. K.V.V. Krishna Rao, Advocate

For the Respondents: Mr. N.R. Devaraj, Sr. CGSC

PRESENT

The Hon'ble Shri Justice V. Neeladri Rao, Vice Chairman

The Hon'ble Shri R. Rangarajan, Member (Admn)

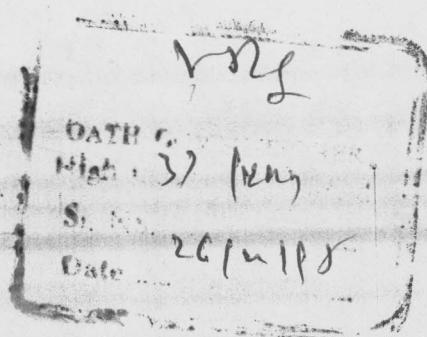
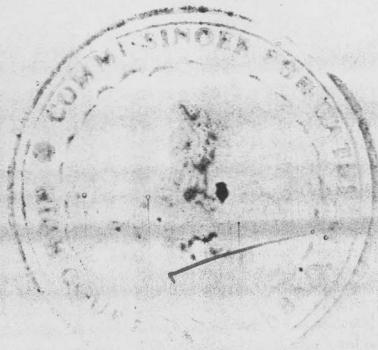
Departmental Examination--Disciplinary Proceedings--Selection-- Applicant appeared in the Departmental examination for the post of Postman one day prior to the initiation of disciplinary proceedings--Result of departmental examination withheld-- Disciplinary proceedings ended with the imposition of penalty debarring him from appearing for examination for a period of 2 years-- Relief--Direction given to publish the result of the examination--Applicant not entitled to be promoted till the period of punishment is over--However his name should be kept at the top of the panel after the expiry of his punishment period without subjecting him to any further test if he had passed in the test.

JUDGMENT

Shri R. Rangarajan, Member (Admn):- Heard Shri K.V.V. Krishna Rao, learned Counsel for the petitioner and Shri N.R. Devaraj, learned Standing Counsel for the respondents.

2. O.A. No. 1000/93 was filed by the applicant for a direction to publish his result in regard to the departmental examination held on 1.12.1991 for recruitment to the post of Post-man. This OA was dismissed as it was submitted by letter dt. 8.10.1991 by the learned counsel for the applicant stating that the applicant was not in service. This submission was found to be erroneous as the applicant is still

Attested True
copy signed
R.P. Singh



इन दो सेन्टरल एडमिनिस्ट्रेटिव विद्युबनल, बेंच
ऐट इलाहाबाद

एनेक्यर न०-१

इन

रिव्यु एप्लोकेशन न.

आफ 1995

इन

एप्लोडिप्ट

इन

शाशिकान्त उपाध्याय ----

एप्लोकेन्ट

बनाम

यूनियन आफ्हिन्ड्या एण्ड अर्स----

रेस्पोन्डेन्ट /

भारतीय डाक विभाग

प्रतिलिपि पत्र संख्या 17-104/93ई को एण्ड ट्रैनिंग दिनांक-

द्वारा यू.एस.पुरिया सहायक महान्दिशक [प्रशिक्षण] डाक भवन
सचार मंत्रालय, नयो दिल्ली, सम्बीच्यत सभी सम्बीधितो को।

विषय :- अतिरिक्त विभागीय एजेन्टो को विभिन्न ब्रेणोयों में
रिच्युक्ति के लिये निर्धारित और सम्पीड़ित की शर्त-
तत्त्व स्वरूप, पुरोक्षा।

महोदय,

इस कार्यालय के दिनांक 30.1.81 के पत्र संख्या 43-04/
80-पेशन और दिनांक 4-9-92 के अनुसर्ते पत्र संख्या 45-22/71-
एस.पो.सो-1/पेशन दिनांक 14-12-87 को संख्या-41-461/87-बी
-11 और दिनांक 10-5-91 को संख्या 17-497/90-ई दो



-2-

एण्ड ट्रीनिंग की ओर आपका ध्यान आकर्षित किरने का मुद्दा निर्देश हुआ है जिसमें भ्रतों के पहचान आप और सम्प्रीति को शातों आदि के बारे में विस्तृत अनुतोष दिये गये हैं।

2- पूर्व अनुभवों से पता चला है कि अतिरिक्त विभागीय एजेन्टों को विभिन्न ब्रेणियों में भर्तों से सम्बन्धित इस कार्यालय द्वारा समस्त मय पर जारी अनुदेशों को व्याख्या शिन भिन्न प्रकार से को जा रही है। तथा एक और इहो सर्किल के भोतर विभिन्न यूनिटों के बीच तथा दूसरी और विभिन्न डाक सर्किलों के बीच समानता का अभाव है। मौजूदा अनुदेशों को व्याख्या और उन्हें लागू करने में असका शांठा अन्तर होने के परिणामस्वरूप जनता के प्रतिनिधियों सेवा पुस्तिकान्धों और दुष्प्रभावित उम्मीदवारों से कापे शिकायते प्राप्त हुयी है। साथ में केन्द्रीय प्रशासनिक अधिकरण को विभिन्न छण्डकों में कुछ मूल शातों की सूच्य जाँच की है जैसे कि उस ग्रामेमस्थायों आवास होना चाहिये। जिसमें डाकघर स्थित है और आयिक जाँच में इसे भारत के संविधान के अनुच्छेद 162 से विहित प्रावधानों के उल्लंघन के रूप नहो पाया गया।



3- उपर्युक्त पृष्ठाभूमि में इस कार्यालय में इस मामले के हरेक पक्ष पर फिर से जाँच की गयी।

-3-

न्यायालय के निर्णय सहित सभी सम्बन्धित शक्तियों पर विचार करते हुये प्रस्ताव प्रतिशादित किये गये और डाक सेवा बोर्ड के विचार/निर्णय के लिये इन्हें इसके समझ रखा गया सावधानों पूर्वक विचार-विमर्श करने के बाद डाक सेवा बोर्ड से निम्नलिखित निर्णय लिये हैं:-

१११ जो विकोपार्जन के प्रयोग साधन का परमाण निर्धारित करना आवश्यक नहीं है। यथा वित यह निर्धारित किया जाय कि, अन्तर्राम विभागीय उप पोस्ट मास्टर शाखा पोस्ट मास्टर को नियुक्ति के मामले में इस उम्मीदवारों को प्राधीनकता दो जाय जिनके जो विकोपार्जन का प्रयोग साधन "भू सम्पत्ति या अचल परिसम्पत्ति से प्राप्त होता है। सर्वांकि कि वे नियुक्ति के लिये अच्युत प्रकार से पात्र हैं। सर्किल अध्यक्षों को यह कहा जाय कि वे इसके अनुसार नियुक्ति प्राप्तिकारों को उप्युक्त अनुदेश जारी करें ताकि अतिरिक्त विभागीय उप पोस्ट मास्टर और अतिरिक्त विभागीय शाखा पोस्ट मास्टर के पक्षों पर भर्ती करते सम्य में दोहरा अनुपालन करें। अन्य अतिरिक्त विभागीय एजेन्टों के मामले में मौजूदा भी जो विकोपार्जन का प्रयोग साधन लागू होगा।



बोर्ड ने यह भी निर्णय लिया कि केदोर्य प्रशासी नक

- 4 -

अधिकरण के निर्णय को ध्यान में रखते हुये यह स्पृट किया जाय कि अतिरिक्त विभागीय पदों पर नियुक्ति के लिये चयन करते समय अतिरिक्त विभागीय व डाकघर के ग्राम वितरण क्षेत्र में स्थायों ~~विकाद~~ को पक्ष पर नियुक्ति के लिये पूर्व शर्त के रूप में और नहीं किया जाये। तथापि नियुक्ति के शर्त के रूप में यह अधिकारित किया जाता चाहिये कि जिस कर्मचारी का चयन होता है वह अपने पक्ष पर विभागीय से पहने अतिरिक्त विभागीय शाखा डाकघर के ग्राम/वितरण क्षेत्र में अपना आवास रहा है, जैसा मामला हो।

4- यह दोहराया जाता है कि उम्मीदवार के पास स्वत्र जो विकोपार्जन के पाप्त बाधन होने चाहिये और उसके अभिभावक के नाम में होने वालों आय या सम्पत्ति इस विभाग में अतिरिक्त विभागीय एजेन्टों के बताएँ नियुक्ति के लिये उन्हें मानता नहीं प्रदान करे करेगी।

5- भर्ती को अच्य शर्तें अपरिवर्तित रहेगी।

6- इस पत्र को अन्तर्वस्तु सूचना /मार्गदर्शक/ कडाई से अनुपालन के लिये कृप्या सभी सम्बन्धित के ध्यान में लाया जाय।



-5-

7- इस पत्र को पावतो कुप्या अधोद्वास्ताक्षरों को भेजो जाय

8- इस पत्र का अंग्रेजी पा दिनांक 6-12-93 को जारो कर दिया गया है।

मध्यदोय

सत्यप्रतीक्षीप

Attested True
Copy
R.P. Singh

