

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD

Original Application No. 317 of 1992

Versus

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

From the facts, as stated by the parties, the correct factual position which emerges out appears to be that a post of Extra Departmental Packer fell vacant due to promotion of one ~~Govind~~ Prasad Sharma as postman. The applicant who was son of one Uma Shanker Upadhyay, who was working as Extra Departmental Delivery Agent at the Samthar post office itself was appointed on risk and own responsibility by the postman. A requisition was sent to the employment exchange for forwarding the names, but the employment exchange failed to do so. It was thereafter, a notification was issued by the department to call for the applications and the four candidates including the applicant submitted their application for the said post. The applicant was given an appointment vide order dated 23.6.1989. It appears that the matter was scrutinized at the higher level may it be because of the result of the complaint and his appointment was found irregular in as much as it was not considered that his own father was working as delivery Agent in the Samthar Post office itself. Even though,

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As the departmental instructions dated 17.10.86, preclude the appointment for near relations in the same office for regular post of Extra Departmental Agent only. It was in these circumstances, vide order dated 25.6.90 the appointment was cancelled and a direction was issued for fresh appointment and the applicant was relieved on 31.7.90.

2. According to the respondents that the case of the applicant is not correct and the memo was not delivered to the applicant, in fact it was delivered and it appears, that this post was not transferable, but the applicant was given an appointment at Barokheri post office in the same capacity, which was done by the Extra Departmental Delivery Agent at his own risk and responsibility. The factual position stated by the applicant for about three years he continued to work without there being any break and he has acquired certain right, appears to be incorrect, in as much as his appointment was not a regular appointment and it was not a case of transfer, but it was a case of fresh appointment, subsequently, when it was discovered that the same was in violation of departmental instruction, it was cancelled it could have been done so, because it was always possible to appoint new comey in preference to a son of a Extra Departmental Delivery Agent and as such, the application deserves to be dismissed. So far as this relief is concerned, however, in view of the facts that the applicant has performed his duty satisfactorily for more than one

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year and ~~has~~ the two post offices, his case for appointment in the same position in some other post office for the delivery agent may be considered, and the preference may be given to him for appointment. With these observations, the application stands disposed of finally. No order as to the costs.

R.K.A.
Member (A)

L.S.
Vice-Chairman

Allahabad Dated: 24.11.1992.

(RKA)