

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 41 of 1992

R.B.Singh Applicants.

Versus

Union of India & ors.
(P&T) Respondents.

Hon'ble Mr. K.Obayya, Member-A
Hon'ble Mr. A.K.Sinha, Member-J

(By Hon'ble Mr. A.K.Sinha, Member-J)

The applicant Rajendra Bahadur Singh has filed this application under Section 19 of the Administrative Tribunal's Act, 1985 with a prayer that the appointment dated 31.12.1991 of the respondent No; 2, Anjani Kumar Srivastava, as Extra Departmental Branch Post Master (E.D.B.P.M.) be quashed and a direction be given to the respondent No. 1 to appoint the applicant as E.D.B.P.M. besides cost.

2. The short facts, giving rise to this application, are that the applicant was appointed as E.D.O.A Dadra, Distt. Sultanpur on 21.2.1968. He worked as such with satisfaction of all. Due to retirement of E.D.B.P.M. Awadh Bihari Singh on the post of E.D.B.P.M. Dadra, fell vacant and consequently to fill the post, requisition was called for from the employment exchange by the Superintendent of post offices Sultanpur by his letter dated 20.6.1991. Name of the applicant was sponsored by the employment exchange along with 4 others including respondent No. 2. The Superintendent of post offices Sultanpur asked all the 5 candidates, whose names were sent by the employment exchange, to submit their applications in the prescribed proforma.

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Two of the candidates did not submit their application. The remaining candidates namely the applicant, R.B.Singh, Anjani Kumar Srivastava, respondent No: 2 and Indra Bahadur Singh submitted their application. Enquiry report was submitted by S.N.Singh, Inspector.

3. The case of the applicant is that the Superintendent of post offices being prejudiced against the applicant appointed respondent No: 2 Anjani Kumar Srivastava as E.D.B.P.M. by the impugned order dated 30.12.1991. The further case of the applicant is that the income certificate of respondent No: 2 was false and that he dwells in a kuchha house, which is not suitable for running post office.

4. The respondents have appeared on notice and denied the allegations of the applicant and their common ground is that there is no Rule that in a kuchha house post office cannot be run. It has been stated that the house of the applicant is under litigation in respect of which civil suit No; 630/1989 is pending in the Court of Civil Judge, Sultanpur. It has further been stated that the income of the respondent No. 2 given was quite correct and that there is no Rule of law for giving preference to a person having higher source of income. The name of the respondent No. 2 was sponsored along with the candidates by the employment exchange and the respondent No.2 having secured more marks than the applicant in High School examination, he was appointed on the said post vde order dated 30.12.91

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It has further been averred that the appointment has been made upon merit after scrutinising of the papers and record and it is wrong to say that the respondent No. 2 had no independent source of income.

5. The case of the respondent No. 2 further is that he had secured 54.67% marks in the High School examination whereas the applicant had secured 50.40% marks and that the respondent No. 2 is working as E.D.B.P.M. since 14.2.1992.

6. On these grounds, it has been prayed that the application has got no merit and it is fit to be dismissed with cost.

7. The only question for consideration is as to whether the applicant is entitled to the reliefs claimed!

8. We have heard the learned counsels of the parties and gone through relevant pleadings and documents filed by the parties. On a consideration of the facts appearing ~~from~~ the record, we are of the view that there is no merit in this application and it is fit to be dismissed. It is noticed that after observing the regular procedure, the Superintendent of post offices scrutinised and considered the relative merits of the candidates and after considering all these facts found respondent No. 2 suitable and accordingly appointed ~~as~~ E.D.B.P.M. vide his letter dated 13.12.1991. Where, therefore, the entire selection process was done in accordance with the provisions of the Rules and after due

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enquiry and the relative merits of the candidates, it cannot be said that the order of appointment issued in favour of the respondent no.2 was illegal or suffers from any illegality or irregularity. Where the candidatures of the applicant as also the others including the respondent No. 2 were duly considered after proper enquiry and the fact is that the respondent No. 2 had higher percentage of marks in High School examination than the applicant and other conditions required for appointment of E.D.B.P.M. were fulfilled by the respondent No. 2, the appointment order dated 20.12.1991 given to respondent No. 2 by the Superintendent of post offices cannot be said to be either illegal or motivated with bias or prejudice.

9. There is nothing on the record either in the form of a document or in the nature of circumstance to prove that the Superintendent of post offices while issuing appointment letter on considering the relative merit of the candidates was actuated by malice of prejudice against the applicant.

10. It is true that the applicant stated in paragraph 12 that the Superintendent of post offices favoured respondent No. 2 because the maternal uncle of the respondent No. 2 has been working as Steno to Superintendent of post offices, Sultanpur; in reply, the respondents in their Counter Affidavit ^{has} stated in clear and unequivocal

terms that the Distt. Magistrate, Sultanpur vide his letter dated 12.12.1991 issued to the respondent No. 1, had mentioned that the annual income of the respondent No. 2 was 8,800/-; therefore, the allegation of the applicant that the income certificate was false and was manipulated by the maternal uncle of the respondent No. 2 who happened to be the Stenographer of the Superintendent of post offices appears to be without any substance.

11. Thus, on a consideration of the facts and circumstances and for the reasons stated above we do not find any merit in this application and the same is accordingly dismissed, but, in the circumstances, there will be no order as to cost.

Ashok Kumar Jaiswal
Member-J

R. Bhambhani
Member-A

Allahabad Dated: 16.5.93

/jw/