

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD.

O.A. No.954/1992.

Today, the 10 th August, 1994.

Suresh Prasad Tripathi :::::: Applicant

vs.

(By Shri Anil Kumar,
Advocate)

Union of India &
Others :::::: Respondents

(By Shri S.C. Tripathi,
Advocate)

HON'BLE MR. MAHARAJ DIN, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A).

JUDGMENT.

(By Hon.Mr. K. Muthukumar, A.M.)

The applicant has worked as a substitute on the Khajni Piprauli, Post Office, as Extra Departmental Runner in place of his father who was regular Extra-Departmental Runner. He claimed that he had worked for more than 273 days as a substitute. In response to the advertisement for two posts of Extra Departmental Mail Carrier/Runner, the applicant submitted his application. However, the respondents did not select him for appointment and on the other hand selected two other candidates, impleaded as respondents No.4 & 5. The petitioner's case is that he had requisite qualification for the post of Extra Departmental Runner whereas the appointment of respondent Nos.4 & 5 were illegal as respondent No.4 was appointed because of external pressure and respondent No.5 was not resident of postal area of P.O. Khajni and his appointment was without jurisdiction and against the rules.

2. In this petition, the applicant has prayed for issuing suitable direction to the respondents to appoint the applicant on the post of Extra-Departmental Mail Carrier/Runner, Khajni, Piprauli or Khajni Khajuri Line and for quashing the appointment of respondent No. 4 & 5.

3. In the Counter-affidavit filed by the respondents following

averments are made. Against the two posts advertised by the respondents for the Post Office Khajni Piprauli or Khajni Khajuri Line, the employment Exchange, Gorakhpur forwarded the names of five candidates. Out of these five candidates, three were found eligible for the post of Extra Departmental Runner, Khajani Piprauli Line and one for the post of Extra Departmental Runner Khajuri Line. The application of the applicant was neither for the post of Extra Departmental Runner Khajani Piprauli nor for Khajani Khajuri Line but was for the post of Postman for which no advertisement was made. However, the respondents kept his application for consideration and correcting the irregularities in his application regarding the post subject to fulfilment of applicant's eligibility and other requisite qualification for consideration of the applicant. On verification of the application and the requisite qualification and the certificate alleged to have been filed by the applicant, it was found that the transfer certificate submitted by the applicant, issued from Narayan Higher Secondary School, Rampur Pandey, the name of the last institution attended by the applicant was shown as Shri Jawahar Lal Higher Secondary School, Jakha but on verification, it was found that he had not studied there. When he was asked to submit certificate for attending the last education at ~~Junior High~~ School, Jakha or copy of transfer certificate of having passed VIII standard, the applicant could not submit any proof in this regard. The respondents also addressed Shri Jawahar Lal Higher Secondary School to verify the educational qualification of the applicant as shown by him in his application that he is VIII passed in the year 1976. In response to it, Principal Sri Jawahar Lal Higher Secondary School Jakha reported that no such scholar remained VIII passed in the year 1976 from his school. There-
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Therefore, the respondents averred that no reliance could be attached to the transfer certificate issued by the Narayan Higher Secondary School, Rampur Pandey. Besides, the respondents have also averred that the applicant had not performed duty continuously for 273 days but he had worked in broken periods and on the risk of his father, and not independently. In view of this, the respondents averred that the applicant had no vested right as he did not have minimum educational qualification for considering his application.

5. During the hearing, learned counsel for the applicant pointed out that the respondents had not considered transfer certificate issued by the Narayan Higher Secondary School, Rampur Pandey, which is clear evidence ^{of his} having passed IX Standard. Besides, the applicant has also filed the mark-sheet issued by U.P. High School Board (Annexure A-1) wherein he is shown to have failed in the High School Leaving Examination and therefore, the applicant has the minimum prescribed qualification of "passed VIII Standard". Learned counsel for the respondent argued that the applicant had not produced relevant certificate declaring his educational qualification of VIIIth Standard passed and the department could ^{not} rely on the transfer certificate issued by Narayan Higher Secondary School as the verification revealed that the school said to have been last attended by the applicant did not show his name in their records nor school could issue any certificate of his having passed VIII Standard.

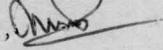
6. We have heard the learned counsel for the parties, and perused the record.

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7. We find from the averments made in the application that the applicant had in fact filed the mark-sheet with the certificate showing his having failed in the High School Leaving Examination. The respondents have not specifically denied the veracity of the mark sheet issued by the U.P. High School Board (Annexure A-1) except by stating that the "application could not be considered due to submission of forged Transfer Certificate by the applicant and not submitted any reply called under the registered post." The learned counsel for the respondents has also not argued about the reasons for non-verification of the certificate issued by the Narayan Higher Secondary School, Rampur Pandey, and also the mark-sheet issued by the U.P. High School Board, but only contended that the verification regarding his having passed VIII Standard from the School stated in the T.C. issued by the Narayan Higher Secondary School, Rampur Pandey, did not prove that the applicant has ~~not~~ passed VIII Standard. In the rejoinder affidavit the petitioner has stated that the respondents have not made ~~any~~ proper verification from the Narayan Higher Secondary School, Rampur Pandey. We find that this is a valid contention of the applicant and we are unable to ignore the mark sheet issued by the U.P. High School Board which has been filed by the applicant as an evidence along with Transfer Certificate of the Narayan Higher Secondary School, Rampur Pandey. The respondents have also not explained as to whether any verification had been done from the Narayan Higher Secondary School, Rampur Pandey, for Class X examination result thereof in order to verify the veracity of the certificate as well as the T.C. issued by the School. Instead they have merely stated that this was a forged certificate. In the absence of any averments made by the respondents in this respect, and natural in the interest of justice, it will not be possible ^{Convecl} for us to dismiss the contention of the applicant.

8. In the light of the above discussions we direct the respondents to make proper and complete verification about the educational qualification of the applicant from the School where he attended and stated to have appeared for the U.P. High School Board Examination and obtained T.C., within a period of two months from the date of communication of this order. If on such verification it is found that the applicant had the prescribed educational qualification, the respondents may consider his candidature for appointment to the aforesaid post of E.D. Runner, if otherwise found suitable. The O.A. is disposed of, with the above direction. There will be no order for costs.

 ADMINISTRATIVE MEMBER.

 JUDICIAL MEMBER.

Dated: 10/8/94, Allahabad.

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