

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

Dated : Allahabad this the 5th day of December, 1996.

Coram : Hon 'ble Mr. S. Das Gupta, Member-A
Hon 'ble Mr. T. L. Verma, Member-J

Original Application No. 696 of 1993.

Ram Kamal son of late Sri Bhagelu,
R/o. village and Post Bela Khurd,
District Gorakhpur.Applicant.

(THROUGH COUNSEL KM. USHA KIRAN)

Versus

1. Senior Superintendent Post Offices,
Bansgaon/Bela Khurd, Gorakhpur.
2. Director (Postal) Services, Gorakhpur
Division, Gorakhpur.
3. Sub-Divisional Inspector (F & T)
Kauriram, Gorakhpur.
4. Raj Kumar son of Sri Ram Lal
R/o. Village Bela Khurd, Post Office
Bela Khurd, District Gorakhpur.
5. Union of India, through its Secretary,
Department of Postal and Telecommunication,
New Delhi.

...Respondents.

(THROUGH COUNSEL SRI N.B.Singh)

O R D E R (Oral)

2.

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

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed challenging the appointment of respondent No.4 on the post of Extra Departmental Delivery Agent (E.D.D.A.) in Sub-Post Office at Bela Khurd. He has prayed that the appointment of respondent No.4 be set-aside and instead he be appointed on that post.

2. The facts averred in the O.A. are that the applicant's name was sponsored by the Employment Exchange in response to a requisition sent by the Department for the post of E.D.D.A. in Bela Khurd Post Office. The respondent No.3, however, rejected his candidature without assigning any reason and sent a notice to Gram Pradhan of the village Bela Khurd requesting for suggesting names of the candidates for the vacant post. The applicant's name was sponsored alongwith other names by Gram Pradhan. The applicant, it is claimed, possess all requisite qualifications for appointment on that post but, he was passed over and instead, the respondent No.4 has been appointed on that post. The applicant states that he had experience of work on the post of E.D.D.A. and therefore, he should have been given the benefit of the instructions contained in letter dated 23.2.1987 issued by the Post Master General, U.P. in which it has been enumerated that at the time of regular appointment on E.D.Posts, those persons who have already worked as E.D.A. as substitutes should be given preference keeping

in view their past experience provided they fulfil other qualifications and are sponsored by the Employment Exchange.

3. The respondents have filed a counter-affidavit in which it has been stated that the Employment Exchange had initially sponsored only one name and therefore, no selection was made on that basis. They therefore, notified the vacancy and in response received a number of applications including that of the applicant. It has also been specifically averred that in the merit list prepared, the respondent No.4 topped the list by virtue of obtaining 60% marks in the Junior High School Examination with distinction in Mathematics and 46% marks in High School Examination whereas the applicant who has secured 45.23 marks in the Junior High School and 45.17% in the High School Examination was placed at Sr.No.7 of the said list. It has also been stated that only experience is not the criterion for selection of the candidates for the post of E.D.D.A. The applicant has filed a Rejoinder-Affidavit in which it has been stated that the Regional Employment Exchange had sent the names of three candidates including that of the applicant.

4. We heard the learned counsel for both the parties and perused the record.

5. The applicant has stated that his name was initially sponsored by the Employment Exchange and without assigning any reason, his candidature was

W.C.

not considered. In reply the respondents have specifically stated that the name of only one candidate was sponsored by the Employment Exchange which was of the applicant and therefore, no selection could have been held on that basis. In the rejoinder-affidavit, the applicant has again reiterated that three names were sponsored by the Employment Exchange. The applicant has, however, not annexed any document to support his claim that three names were sponsored by the Employment Exchange. We see no reason to dis-believe the averments of the respondents that only one name was sponsored and therefore, his candidature was not considered. This is in accordance with the instructions contained in Section III of the Extra Departmental Agents (Conduct and Service) Rules, 1964 which envisage that all E.D. appointment shall be made on the basis of the name sponsored by the Employment Exchange and the minimum number of names sponsored will be three. In the case of ~~A. S. Nayak~~^{Rangarajulu} a full bench of the Tribunal has held that provision of sponsoring name by the Employment Exchange has the force of statutory rule and any contravention thereof will make the appointment irregular. The said rules specifically provide that minimum three names have to be sponsored. In view of this, the respondents have done nothing wrong in ignoring the candidature of the applicant since he was the only name sponsored by the Employment Exchange. *In any case his candidature was actually considered along with other candidates who applied in response to open advertisement.*

6. The specific averment of the respondents is that respondent No.4 obtained much higher marks

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than the applicant in the Junior High School examination ~~and~~ The minimum qualification for the post of E.D.D.A. is Junior High School examination pass. This requirement is also of statutory nature. The instructions also envisage that among the candidates, one who gets highest marks in the examination, which is the qualifying examination for the post, shall be the best candidate. ^{provided} In the merit list prepared, ^{he} he fulfills the other qualifications relating to residence and property. In the present case, the respondent No.4 having obtained much higher marks than the applicant, is ^{better} certainly the ~~best~~ candidate than the applicant. This fact has not been rebutted by the applicant in the Rejoinder Affidavit. The only support ^{he seeks} ~~is to deny~~ is from the letter dated 23.2.1987. We have perused this ^{discussion in} letter. It appears that this is in pursuance of some ^{in the} meeting ~~of~~ Union, ~~and~~ Appreciating ~~the~~ certain points raised by the Union a decision was taken by the ^{Chief} Post Master General that experience of E.D.A. working as substitute shall be taken into consideration while considering their candidature on regular E.D. post. We see nothing in this letter which is in supersession of the instructions contained in Section III of E.D.A. (Conduct and Service) Rules, 1964, which envisage that preference ^{who} ~~to~~ be given to the candidates ^{who} obtained highest marks in the qualifying examination i.e. Junior High School Examination ^{in this case}. As admittedly the applicant obtained lower marks than the respondent No.4, he can not have a prior claim over respondent No.4.

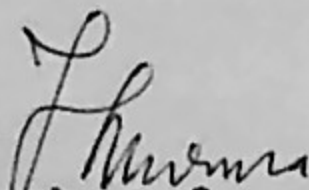
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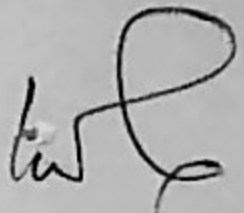
In view of the above, ^{contd. on page 6,....}

The case is dismissed leaving the parties to bear their own costs.

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7. In view of the foregoing we find no merit in this application. The same is dismissed accordingly. Parties to bear their own costs.


Member-J


Member-A

(pandey)