

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 31st day of May 2002.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON. MR. S. DAYAL, A.M.

O. A. No. 1271 of 1995.

Dinesh Chandra Yadav s/o Shri Shiva Vrat Yadav r/o Village
Kandhrapur, Tehsil Sagri, District Azangarh.

..... Applicant.

Counsel for applicant : Sri A. Tripathi.

Versus

1. Union of India through Post Master General, Gorakhpur Region, Gorakhpur.
 2. Senior Superintendent of Post Office, Azangarh Division, Azangarh..... Respondents.
 3. Sub Division Inspector of West Sub-Division, Azangarh.
 4. Uma Shankar Bharti s/o Shri Bal Krishan Ram r/o Village Basti Ugar Patti, Post Kandhrapur, District Azangarh.
- Respondents.

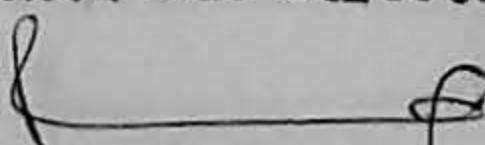
Counsel for respondents : Km. S. Srivastava.

O R D E R (ORAL)

BY MR. JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. under section 19 of A.T. Act, 1985, the applicant has challenged the order of appointment of Respondent No.4 Uma Shankar Bharti as Extra Departmental Mail Carrier/Extra Departmental Delivery Agent of Post Office Zolahapur, Kandhrapur, District Azangarh vide order dated 19.12.1999.

2. The facts of the case are that the post of Extra Departmental Mail Carrier/Delivery Agent, ^{had} fallen vacant. By notification dated 26.9.94 (Annexure-CA-1) applications were invited. In para 9 of the said notification, it was specifically contemplated that candidates belonging to SC/ST reserved category shall be given preference as per rules. The applicant and the Respondent No.4 both applied. The selection proceedings took place. The respondent No.4 was selected being most suitable



and was given appointment order. Aggrieved by the said order, the applicant has filed this O.A. Counsel for the applicant has submitted that the applicant belonged to OBC reserved category and as such he was also entitled for preference. It is further submitted that the applicant had secured highest marks 52.1% as he was better in merit in comparison to Respondent No.4, he should have been selected as he was also a preferential candidate. Counsel for the respondents, on the other hand, submitted that the OBC category was not included for being given preference in the notification. ^{AS 122} ~~Against~~ para 9 of the notification, only SC/ST candidates could be given preference. As the respondent No.4 belongs to SC reserved category, he had been selected and preference given and the order of appointment does not suffer from any error of law. It was also submitted that there was a short fall ^{in respect of} ~~for any~~ SC candidates, hence the Respondent No.4 was selected.

3. We have considered the submissions ~~of~~ counsel for the parties. As the notification was very clear on the point and OBC reserve category was not included for being given preference, the applicant cannot challenge the appointment of Respondent No.4. Counsel for the applicant has placed reliance in full Bench judgment of Hyderabad Bench of Tribunal in case of M. Satyaseela Reddy Vs. Union of India & others 1999(2) AJ page 606. The full Bench answered the question in the following manner :-

"The condition that preference will be given to ST/SC/OBC would mean that the candidates belonging to ST/SC/OBC even if placed below the names of OCs (i.e. other candidates, or candidates belonging to general category) in the merit list, would be entitled to appointment in preference to OCs, though all the candidates belonging to general category or ST/SC/OBC categories would be entitled to equal consideration for the purpose of selection. If the name of no candidate belonging to ST/SC/OBC finds place in the merit list, or no eligible ST/SC/OBC candidate is available for the post, then only OC candidate may be selected for appointment according to rules."

4. The full Bench has considered the various aspects of the preference given in such appointments. The applicant claims that he was entitled for preference being OBC category. However,

the claim is not justified as firstly, the department did not include the OBC category for giving such preference in the notification. Secondly in the para 6 of the C.A., the respondents have said that in this Division, the ~~percentage/reservation~~ ^{preference in} of ~~35~~ candidate in recruitment of Extra Departmental cadre, was only for SC/ST, ^{as there was short fall} therefore preference has been given to SC candidate. The respondent No.4 being most suitable candidate and after being giving preference was appointed as Extra Departmental Delivery Agent/Mail Carrier, Though in high school, the percentage of marks secured by Respondent No.4, were less than the applicant, he was selected being SC candidate. The full bench had ^{approved} ~~given~~ fully given its decision for selection of SC/ST candidates according to rule.

We find no merit in the case. The O.A. is disposed of accordingly. No order as to costs.

A.M.

V.C.

Asthana/
3.6.02