

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 8th day of April, 2000.

Original Application no. 911 of 1995.

Hon'ble Mr. S.K.Naqvi, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member.

Shri Awadesh Kumar Tewari,
S/o Sri Ram Narain Tewari,
R/o Village and Post Nahawai, Tehsil Meja,
Distt. Allahabad.

... Applicant

C/A Shri K.C. Sinha,
Sri A. Srivastava
Sri K.K. Dubey

Versus

1. The Union of India through its Secretary, Post and Telecommunication Ministry, New Delhi.
2. The Post Master General, Lucknow.
3. The Director, Head Post Office, Allahabad.
4. The Senior Superintendent of Post Offices, Allahabad.
5. Prabhu Nath Mishra, S/o Sri Ambika Prasad Mishra, R/o Village and Post Nahawai, Tahsil Meja, Distt. Allahabad.

... Respondents.

C/R Sri S.C. Tripathi, Sri I.C. Pandey, Sri S.N. Srivastav

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ORDER

Hon'ble Mr. M.F. Singh, Member-A.

The applicant is aggrieved by his non selection to the post of Sub Post Master for village Nahawai.

2. The brief facts of the case are that the applicant is a permanent resident of village and Post Nahawai, Tehsil Meja- District Allahabad. The respondent no. 4 vide its letter dated 31.01.1995 requested the Employment Exchange, Allahabad to sponsor the names of candidates for appointment to the post of EDSPM. The Employment Exchange sponsored the name of the following candidates:-

Sl. No.	Name	Percentage
1.	Awadhesh Kumar Tewari	59.8%
2.	Anil Kumar	59.17%
3.	Prem Shanker	49.00%
4.	Krishna Kant	47.05%
5.	Prabhu Nath Mishra	36.8%

According to the applicant he has secured the highest marks in the High School Examination and respondent no. 5 secured lowest marks in the High School Examination.

Respondent no. 4 has appointed respondent no. 5 to the post of EDSPM in a arbitrary manner. The applicant has given a representation to respondents no. 2 and 3, stating therein that the appointment of respondent no. 5 is arbitrary and malafide and has also prayed for cancellation of appointment of respondent no. 5. The applicant is

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seeking relief to quash the appointment of respondent no. 5 and appoint him on the post of EDSPM, Nahawai.

3. The respondent in their counter affidavit have admitted that the applicant is a resident of village Nahawai and has also secured 59.7% marks in the High School Examination. According to them, several other conditions should be fully fulfilled by the candidates alongwith securing highest marks among the candidates. As such the applicant was not found eligible as he had no independent source of living.

4. Heard Shri K.C. Sinha, learned counsel for the applicant and Shri S.C. Tripathi, learned counsel for the respondents and perused the records.

5. According to section III of Method of Recruitment of Service Rules for E.D. Staff, the following instructions are to be observed scrupulously while making selection of E.D. Agents, (i) Age (ii) Educational Qualification (iii) Income and ownership of property (iv) Residence (v) Security Apart from the above the D.G. Posts letter no. 17-497/90 ED&Tg. dated 10.05.1991 provides that :-

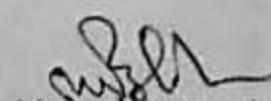
"The deciding factor for the selection of ED BPMs/ED SPMs should be the income and property and not the marks, has been examined threadbare but cannot be agreed to as this will introduce an element of competitiveness in the matter of possession of property and earning of income for determining the merit of candidates

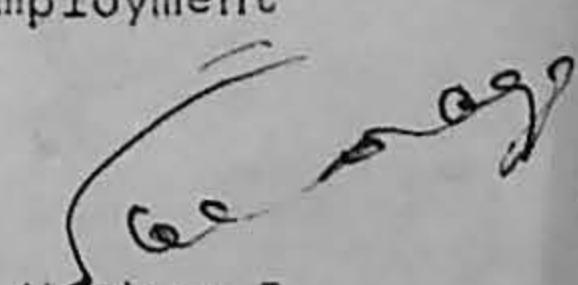
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for appointment as ED Agents. Proof of financial status is not only subject to manipulation but is also detrimental to merit. When the Constitution of India guarantees equal opportunity to all for their advancement, the reasonable course would be to offer ED appointments to the person who secured maximum marks in the examination which made him eligible for the appointment, provided the candidate has the prescribed minimum level of property and income so that he has adequate means of livelihood apart from the ED Allowances."

6. It is seen from the records that the applicant is qualified for appointment as EDSPM as per age and educational qualification. He is also a resident of village Nahawai and his family income is Rs. 18000/- per year, as per certificate issued by Tehsildar, Meja (Annexure 1 to the OA). He has also secured more marks in the High School Examination as compared to the respondent no. 5. In fact respondent no. 5 has failed in one of the subjects and could pass the High School in supplementary Examination. It is clear from the facts that the applicant is more meritorious as compared to respondent no. 5, since he has secured more marks in High School Examination as compared to respondent no. 5. The reasonable course would have been to offer ED Employment to the applicant.

7. In the light of the above facts the OA is allowed and the appointment of respondent no. 5 is quashed. It is directed that the matter be re-examined by the respondents in the light of the above observation ^{from} amongst the candidates already sponsored by the Employment Exchange. No order as to costs.


Member-A


Member-J

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