

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 07th day of March 2001.

Original Application no. 1525 of 1999.

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

Hon'ble Maj. Gen. K.K. Srivastava, Administrative Member

Jagdish Chandra Panth,
S/o Late B.D. Panth,
R/o Village and Post Pilkholi,
Distt. Almora.

... Applicant

C/A Sri O.P. Gupta

Versus

1. Superintendent of Post Offices,
Almora Divisions Almora.
2. Post Master General Bareilly Region,
Bareilly.
3. Union of India through Secretary,
Ministry of Communication Govt. of India,
NEW DELHI.

... Respondents

C/Rs. Km. Sadhana Srivastava

...2/-

Sacw

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O R D E R (Oral)

Hon'ble Mr. S.K.I. Naqvi, Member-J.

The applicant Shri Jagdish Chandra Panth, has come up impugning the modified list dated 30.11.99, through which the result of the examination for the post of Postman for the year 1998 declared on 29.04.99 was modified and the applicant who was amongst the successful candidates in the result declared on 29.04.99 was eliminated in subsequently filed modified list, copy of which has been annexed as annexure A-8 to the O.A.

2. As per applicant's case, he was appointed as Stamp E.D./Vender in the year 1992 and appeared in 1998 examination for the post of Postman for which the examination was held on 20.12.1998 and he was amongst the declared successful candidates being at Sl. no. 6 and was also sent for training to the post. It was on 10.05.99 that this result was kept in abeyance and the subsequent modified select list was declared on 30.11.99 vide impugned order. The applicant has a grievance that once he was declared successful in the examination in question, he could not be dropped or deleted through the modified list for which he was to be taken as unsuccessful candidate for the practical purposes.

3. The respondents have contested the case and in para 6, 7 and 8 of the CA there is mention of whole examination scheme and the circumstances under which the result declared earlier had to be modified. In their CA, the

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the respondents have a case that in the impugned examination 7 vacancies were to be filled up from out sider quota and the applicant was also claimant under this head. In these 7 posts 5 posts were for general candidates, one for S.C. candidate and one for OBC candidate. Amongst the general candidates, applicant Shri Jagdish Chandra Panth and one Shri Bhawan Chandra Lohani obtained equal marks and, therefore, their candidature was bracketed and in view of 1995 circular Shri Bhawan Chandra Lohani was preferred against Shri Jagdish Chandra Panth and, therefore, amongst 5 general candidates of out-sider quota, the applicant had to be eliminated.

4. Heard learned counsel for the rival contesting parties and perused the record.

5. We find that the 1998 postman examination was not a qualifying examination but it was only to sort list the eligible candidates to the extent of vacancies and the applicant was within the list of sort listed candidates. This exercise of bracketing and declaration of modified list appears to be only cover up the negligence and non compliance of the **rules** by the officers concerned in this matter, for no fault of applicant.

6. Learned counsel for the applicant referred the law laid down in 1998 SCC (L&S) 1243 State of Maharashtra and others versus Pratapsingh Dayalsingh Rajput and also 2000 March Part pg 519 Satyendra Nath Jha versus Govt.

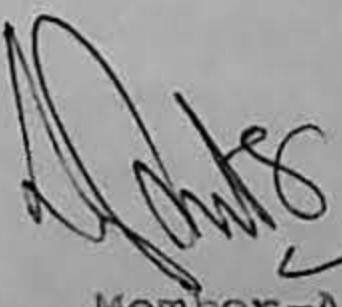
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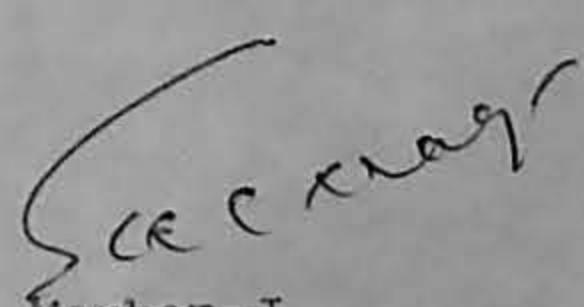
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of India and others he has also referred 1995 ATC (29) 454 K.V. Vijesh Versus Union of India and others. Learned counsel for the respondents took us through 1993 SCC (L&S) 144 and 1991 SCC (L&S) 800. Considering the referred case we find that the question involved here and as was before Hon'ble Courts is mainly based on facts, and no law as referred from either side, squarely covers the present matter. Therefore, we desist from going deep on that side. The facts remain that the applicant was amongst the successful candidates as per result declared on 29.04.1999, the matter was kept in abeyance and subsequent list of successful candidates was modified on 30.11.1999 in which the applicant is not there. The bracketing exercise was only a subsequent one to cover up the matter otherwise. If two candidates get the equal marks they are not bracketed against their names but in the merit they are kept at same sl. no.

7. For the above we find that injustice has been done to the applicant but at the same time we do not find it proper to disturb the settled position and, therefore, we part with the case with the direction that the applicant, Shri Jagdish Chandra Panth, be deemed to be a candidate who has successfully qualified the test, to be appointed as postman and be considered to be posted as postman against existing post, if any or against the accrual of any vacancy. The OA is decided accordingly.

No order as to costs.


Member-A


Member-J

/pc/