

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 219 of 1999

Allahabad this the 20th day of May, 2005

Hon'ble Mr. V.K. Majotra, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Jang Bahadur Singh, S/o Late Matuk Dhari Singh, R/o
Village & P.O. Kapasi Kala (Koraon), Tehsil Koran,
District Allahabad.

Applicant

By Advocate Shri H.S. Misra

Versus

1. Union of India through Secretary, Ministry of
Telecom (P&T), New Delhi.
2. Senior Superintendent of Post Offices,
Allahabad Division, Allahabad-211001.

Respondents

By Advocate Shri S.C. Mishra

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

By this O.A. applicant has prayed for the
following reliefs;

"(i) That the Hon'ble Tribunal may kindly be
pleased to quash the impugned notification
dated 25.01.1999 (Annexure No.1 to Compilation
No.1) being wholly illegal, most arbitrary,
discriminatory and unconstitutional;

(ii) The Hon'ble Tribunal may further be
pleased to quash the order dated 15.12.98
(Annexure No.4 to Compilation No.II) by which

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the respondent no.2 has cancelled the advertisement dated 06.04.98; and

(iii) The Hon'ble Court may further be pleased to command the respondents to make selection for appointment to the post of E.D.B.P.M., Kapasi Kala from amongst the persons including the applicant who had applied for the said post pursuant to the advertisement dated 6.4.98."

2. The brief facts, as per the applicant, are that on 06.04.98 the Senior Superintendent of Post Offices, Allahabad requisitioned the names of not more than 5 candidates from Sewayojan Adhikari, Allahabad by 05.05.1998 with regard to selection and appointment of E.D.B.P.M., Kapasi Kala. Thereafter applicant was asked on 06.05.1998 to submit his educational certificates and necessary testimonials by 25.05.1998. The applicant applied for his appointment on 18.05.1998, along with the required documents. However on 15.12.1998 the respondent no.2 has cancelled the advertisement-dated 06.04.1998 without assigning any reason. The post of E.D.B.P.M., Kapasi Kala was again advertised on 25.01.1999, by reserving it for S.C. candidate's only, inviting applications by 23.02.1999. Aggrieved by the action of the respondent no.2 inviting application from S.C. candidates only the applicant has approached this Tribunal for quashing the notification-dated 25.01.1999 and also to quash the order dated 15.12.1998.

3. The main grounds on which the applicant has assailed the impugned orders are that the respondent no.2 without assigning any reason and without giving any opportunity of hearing to the applicant has cancelled the earlier notification dated 06.04.1998. The applicant has further submitted that rule of reservation cannot be applied in the posting of

E.D.B.P.M. as no salary is being paid but only monthly allowances is to be paid. Learned counsel further contended that there was a single post of E.D.B.P.M., therefore, the same cannot be reserved for S.C. candidate. Therefore, the orders passed by the respondent no.2 are illegal, arbitrary and against the principle of natural justice, therefore, liable to be quashed.

4. Resisting the claim of the applicant, the respondents have filed counter affidavit as well as supplementary counter affidavits. In their pleadings, they have submitted that the Director General of Post Offices vide his letter no.137-10/97 SPB II dated 21.08.1997 has directed to mention the particulars of community to which the post is reserved in the notification itself but erroneously the same was not mentioned in the advertisement issued on 06.04.1998. The respondents have submitted that as per post based reservation roster the said post comes under the reservation quota of scheduled caste category. It is further submitted by the respondents that this was not only single vacancy during the year 1998 but there were 29 vacancies during the year 1998 so this was not instant post and the reservation was made in accordance with rules and the instructions on the subject. The respondents have finally submitted that the fresh notification dated 25.01.1999 was issued on valid grounds, therefore, the O.A. is liable to be dismissed.

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

7. We have gone through paragraph no.7 of supplementary counter affidavit filed on 29.03.2004,

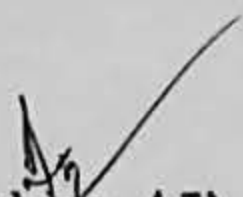
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in which it is stated that there were 29 vacancies of E.D.B.P.M. during the year 1998 in this division. As per post based reservation roster out of 29 posts vacant, 15 posts were for general category candidates, 8 posts were reserved for OBC and 6 posts reserved for scheduled caste candidates. The post of E.D.B.P.M., Kapasi Kala comes under the scheduled caste quota in accordance with the DG Posts letter No. 137-10/97-SBP-11 dated 21.08.1997 circulated under DG Post No.10-11/97 ED & Trg dated 27.11.1997, therefore, the said post was reserved for scheduled caste category. This was not only single vacancy during the year 1998 but there were 29 vacancies during the year 1998. This clearly shows that the claim of the applicant that the single post cannot be reserved for scheduled caste candidate, is not tenable as the total posts of E.D.B.P.M. were 29 out of which 15 were reserved for general category candidates, 8 posts were reserved for OBC and six posts including the post of E.D.B.P.M., Kapasi Kala were reserved for scheduled caste category. We have also perused the model roster for reservation in original, which was directed to be produced at the time of arguments, which was so produced by the respondents. On page 31 under the head "अतिरिक्त विभागीय शाखा डाकपाल के पदों हेतु पोस्ट बेस्ड रजिस्टर" at serial no.24 in column no.2 name of Branch Post Office is mentioned as Kapasi Kala (Koraon) and the same is shown as "reserved for scheduled caste (अनुसूचित जाति वर्ग)", which also fortifies the stand of the respondents that the post of E.D.B.P.M. at Kapasi Kala was reserved for S.C. candidate only and erroneously on 06.04.1998 it was notified for all category candidates. We have also perused letter dated 06.04.1998 (annexure-1 in compilation No.II), which was advertised for the post of E.D.B.P.M. at Branch Post Office, Kapasi

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Kala (Koraon), which was later on cancelled by annexure-4 letter dated 15.12.1998 due to unavoidable reasons. It is evident that due to the fact that this post in question was reserved for scheduled caste as shown in the original roster register, so a fresh advertisement dated 25.01.1999 after due amendment was issued.

8. In the facts and circumstances and in view of the aforesaid, we are of the view that the applicant has failed to make out any case for consideration, as we find no illegality in the orders passed by the respondent no.2. Accordingly, the O.A. is dismissed being bereft of any merit. No order as to cost.


Member (J)


Vice Chairman

/M.M./