

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 275 of 1999

Allahabad this the 11th day of January, 2001

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.S.K.I. Naqvi, Member (J)

UMA SHANKER PRASAD, aged about 25 years, S/o Shri Tegnu Ram, R/o Village-Pura-Achanak, Post Tikapur, District Azamgarh, presently residing in Village and Post Amari(Atraulia)Distt.Ambed-karnagar, employed as EDMP, Amari in the Distt. Azamgarh.

Applicant

By Advocates Shri Avnish Tripathi
Shri J.M. Sinha

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Sub Divisional Inspector(Postal), West Sub Division, Azamgarh.
3. Director Postal Service, O/o P.M.G. Gorakhpur Region, Gorakhpur.

Respondents

By Advocate Km.Sadhna Srivastava

O R D E R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for direction to respondent no.2 not to oust the applicant from the post of E.D.M.P., Amari

except in accordance with the P & T, E.D.A. (C&S) Rules, 1964. A prayer has also been made to quash the Notification dated 18.1.1999.

2. The facts as given are that the post of E.D.M.P. at Amari Branch Post Office, Azamgarh fell vacant when the incumbent was put off duty on 08.6.1996. The applicant was engaged to manage the work of E.D.M.P. on 10.2.1997 on the risk and responsibility of Shri Tengano, Assistant Post Master, Azamgarh Head-Office. The previous incumbent who was put off from duty, was removed from service on 31.8.1998 and a Notification was sent to Employment Officer, Pradhan Gram Sabha, Asstt. Superintendent, Branch Post Master, Sub Post Master, Senior Post Master, Block Development Officer and Police Station, Atraulia, Distt. Azamgarh. In the notification it was mentioned that the post was for S.C. candidate.

3. We have heard the arguments of Shri Avnish Tripathi, learned counsel for the applicant and Km.S. Srivastava, learned counsel for the respondents.

4. Learned counsel for the applicant has made two submissions. First is that since the post was not vacant, notification should not have been issued. Second is that since the applicant was working on the post, he should

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have been entitled to be considered for recruitment to the post on account of his past experience as an incumbent. It is contended by the learned counsel for the applicant that the applicant cannot be so considered on account of notification issued because the notification confines consideration to S.C. candidate only. He submits that post based reservation should have been applicable to this post and the respondents have not taken the pre-requisite steps for applying the post based reservation, prior to recruitment on this post for the sub division concerned.

5. Learned counsel for the respondents has submitted that the applicant according to his own averments, was posted with immediate effect on the risk and responsibility of Assistant Post Master, Head Post Office, Azangarh. and that the arrangement was purely temporary which could be terminated without any notice. Learned counsel for the respondents has also drawn attention to the averments made in the counter-reply that after removal of the previous incumbent-Shri Chabi Lal on 31.8.1998, necessity for making regular appointment on the said post of E.D.M.P., had arisen. The notification was issued in this context.

6. As regards first contention of learned counsel for the applicant, we find that the applicant was not recruited as E.D.M.P. after following the procedure for selection of the

candidate, because no other candidate was considered at the time of placement of the applicant by order dated 10.2.1997. Therefore, first ground for the relief was not valid.

Q7. As regards challenge to the Notification for filling up the post on the ground that it completely ousted the applicant from the consideration because of reserving it for S.C. candidate only, learned counsel for the applicant has mentioned that a circular letter was issued by the Department of Posts on 27.11.97 (annexure R.A.-1), by which it was laid down that post based reservation would be applicable to recruitment on the post of E.D. employees. We have carefully perused the para-4 of the said circular letter, in which reference has been made to letter dated 21.8.1997, in which post based reservation etc. was to replace the vacancy based reservation. The said circular has not been placed by any of the counsels. As far as the provision of circular letter dated 27.11.1997 is concerned, which is placed before us, it is clear that para-4(v) permits the vacancy based reservation ^{prevails} in those recruitment unit where the representation of reserved categories has not reached the prescribed percentage. It is contented by the learned counsel for the respondents that so far only 14% of vacancy reserved for S.Cs has been reached which is less than the prescribed percentage. Under the circumstances, we hold that application of vacancy based reservation to those

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posts is not against the instructions issued by the Department of Posts vide letter dated 27.11.97. Learned counsel for the respondents, however, was not in a position to show the roster point against which the recruitment to the post of E.D.M.P., Atraulia was being made.

8. Under the circumstances, we direct the respondents to ascertain whether recruitment to the post of E.D.M.P., Amari, Atraulia falls on the roster point meant for S.C. and in case it does not so fall, fresh notification be issued and the applicant will be considered against the same. In case it is found that the said recruitment is against the roster point, then the selection already held can be operated and person appointed based on such selection. In any case, the respondents shall pass a reasoned and speaking order in which the roster point number operated in filling up of this post shall also be mentioned. The applicant, if he has not already been replaced, shall not be replaced till the reasoned order has been passed. The respondents are further directed to pass the reasoned and speaking order within 4 weeks of receipt of copy of this order, which shall be supplied by the applicant within 15 days from the date of this order. No order as to costs.

S.R.
Member (J)
/M.M./

H. Jay
Member (A)