

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD  
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Original Application No. 32 of 1999

Dated : This the 08 day of January, 2004

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN  
HON'BLE MR. A.K. BHATNAGAR, MEMBER(J)

Hori Lal aged about 46 years son of Kaika Prasad,  
Resident of Akarahi Bazar, Behind Police Station-  
Sanjai Nagar, Dibiapur, District-Auraiya.

...Applicant.

By Advocate :- Shri V. Bahadur

Versus

1. Union of India through Maha Nideshak, Department of Posts, New Delhi.
2. Post Master General, Agra Region, Agra.
3. Senior Superintendent of Post Offices, Etawah/Auraiya.
4. Sub.Div. Inspector of Post office, Dibiapur, District - Auraiya.
5. Satya Prakash son of not know, working as E.D. Runner Sahyal, Dibiapur, District-Auraiya.

Respondents.

By Advocate : S Km. Sadhna Srivastava

ORDER

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

None for the applicant. None was present on his behalf even on two previous hearings, as such we have proceeded in terms of Rule 15(1) of C.A.T. Procedure Rule 1987.

2. We have heard Km.S. Srivastava and taken into consideration the pleadings of both sides, O.A. could be dismissed even in default and for non-prosecution but it is liable to be dismissed even on merit.

3. By this O.A. filed under section 19 of Administrative Tribunals Act 1985 the applicant has sought a direction for quashing the appointment of Respondent no.5 and further direction to respondent no.4 to appoint the applicant on the post of E.D.Runner Sahayal-Dibiyapur or in the alternative regularize the services of the applicant on the said post.

4. The facts, in brief, are that a requisition was made by the department for filling up the posts of E.D.Runner in place of one Lal Ram, E.D.Runner, Dibiapur, Sahayal, who was going to retire in the month of September, 1998. In pursuant to the requisition four names were sponsored by the Employment Exchange, Etawah viz the name of the applicant. The applicant submitted his application on the prescribed proforma. It is also claimed that the applicant had long experience of working for several years between 1993 and 1998 as Substitute of E.D.Runner/E.D.A. It is also alleged that the name of respondent no.5 was not sponsored by the Employment Exchange. However, the candidature of Respondent no.5 was included for consideration by the Sub-Divisional Inspector for extraneous reasons and the respondent no.6 was illegally appointed by the respondent no.4 instead of appointing the applicant. Aggrieved with the action of the respondent no.4, the applicant sent a representation to the Post Master General, Agra Region, Agra on 09.12.1998. The aforesaid representation is still pending before the concerned authority and the applicant has received no reply of the same. Aggrieved by this the applicant filed this O.A.

5. Resisting the claim of the applicant the respondents have filed the Counter Affidavit. Counsel for the applicant



has filed the Rejoinder Affidavit reiterating the facts stated in the O.A.

6. Learned counsel for the respondents submitted that on retirement of one Shri Lal Ram, Ex-E.D.R., Sahayal a requisition was sent to the Employment Exchange endorsing the copy thereof to different local institutions and wide publicity was also made. Twenty-four applications including four names sponsored by the Employment Exchange were received in the office and were considered for the post of E.D.R., Sahayal and appointment has been made as per rules and standing orders of the departments. It is also contended that out of the 24 candidates applied for the aforesaid post Shri Satya Prakash was highest in merit securing 70.16% marks in High School examination. While on the other hand the applicant secured 45.6% marks in Matriculation.

7. We have carefully gone through the pleadings of the case and perused C.A.-I in which the name of the applicant is on serial no.3 and name of the respondent no.5 is on serial no.10, which clearly indicates that marks obtained by the respondent no.5 are higher than the marks obtained by the applicant.

8. Learned counsel for the respondents further submitted that there is no such rule in the department to regularise the services of the substitutes working in stop gap arrangement so there is no question of regularisation of services of the applicant as he was never in service of the department.

9. We have heard learned counsel for the respondents and perused the pleadings available on record. After careful consideration and perusal of CA - I, it is evident that respondent no.5, was selected as E.D.R., Sahayal, is higher merited candidate in the High School Examination than applicant.

10. In view of the facts and circumstances and in the light of above discussions, we are of the view that the applicant has no case and <sup>the O.A.</sup> is liable to be dismissed on merits.

11. Accordingly the O.A. is dismissed being devoid of merits with no order as to costs.

Member J

Brijesh/-

Vice-Chairman

8.1.04