

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad, this 16th day of November, 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, VC

Hon'ble Mr. S. Dayal, A.M.

Original Application No.512 of 1999

K.K. Shama,  
s/o Sri Chedi Lal Shama,  
aged about 36 years,  
r/o 607, Sec. 'C', Wishwa Bank,  
Barra, Kanpur-27.

(By Advocate Sri O.P. Gupta)

. . . . Applicant

Versus

1. Senior Superintendent of Post Offices,  
City Division, Kanpur.
2. Post Master General, Kanpur.
3. Union of India, through Secretary, Ministry  
of Communication, Govt. of India, New Delhi.
4. Subhash Chandra Yadav,  
Office Assistant in the office  
of Sr. Superintendent of Post Offices,  
City Division, Kanpur.

. . . . Respondents  
(By Advocate Sri R.S. Srivastava  
for respondents)

ORDER (Open Court)

(By Hon'ble Mr. Justice R.R.K. Trivedi, VC)

The facts, in short, giving rise to the present controversy are that by the impugned order dated 26.2.99 the Respondent no.4 Sri Subhash Chandra Yadav was directed to be posted as Accountant in the Divisional Office in place of the applicant. The order also says that Respondent no.4 is senior to the applicant. Aggrieved by this order, the applicant has approached this Tribunal

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under Section 19 of the Administrative Tribunals Act, 1985. The learned counsel for the applicant has submitted that the applicant was appointed as Postal Assistant vide order dated 21.12.83, a copy of which has been filed as Annexure No.A-4 to the OA. The Respondent no.4 was appointed as Postal Assistant by way of promotion from the post of Postman on 20.1.89. Thus, as Postal Assistant, the applicant was senior to the Respondent no.4. Both were selected for the post of Accountant on 15.11.94. On 7.12.94, the Respondent no.4 Sri Subhash Chandra Yadav did not join as Accountant, while the applicant joined as Accountant. The applicant has filed the order dated 15.11.94 (Annexure No.A-1 to the OA), in which both applicant and Sri Subhash Chandra Yadav have been shown at Sl.Nos.3 & 4 respectively. The learned counsel for the applicant has submitted that the impugned order dated 26.2.99 has been passed without affording any opportunity of hearing.

2. Miss Sadhna Srivastava, learned counsel for the respondents, on the other hand, submitted that though the applicant was appointed earlier as Postal Assistant, but he lost his seniority on account of transfer on his own request and was put below the Respondent no.4 in the City Division. However, it is disputed that the Respondent no.4 when promoted as Accountant did not join the promotion post. If anybody declines to join the promotion post, under rules normally he is deprived of the chance of promotion for a period of one year and also seniority against the persons, who are promoted <sup>and selected</sup> along with him. However, all these questions could not be considered by the Respondent no.2,



as opportunity of hearing was not given to the applicant. In our opinion, as the impugned order is violative of principle of natural justice, which could not be disputed by the counsels for the respondents, hence the order cannot be sustained. order dated 26th February 1999 and 3rd May, 1999 are quashed.

3. For the reasons stated above, this application is allowed and the orders dated 26th February, 1999 and 3rd May, 1999 are quashed. However, it shall be open to the Respondent no.2 to pass a fresh order, in accordance with the law, after hearing the applicant and Respondent No.4. If any party approaches to the Respondent no.2 by filing a representation, the matter may be decided within three months from the date copy of the order is filed. There will be no order as to costs.

  
A.M.  
V.C.

Nath/