

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 742 of 1999

Thursday, this the 07th day of August 2008

**Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. K.S. Menon, Member (A)**

Shailendra Pratap Singh son of Vishwanath Singh Adopted Son of Baij Nath Singh, Resident of Village and Post Office Hunsepur (Bharauli) District Azamgarh Ex. Extra Departmental Runner (E.D.R.) in the Branch Post Office Hunsepur, District Azamgarh.

Applicant

By Advocate Sri R.M. Singh

Vs.

1. Union of India through Post Master General, Uttar Pradesh, Lucknow.
2. Sub Divisional Inspector of Post Offices, West Sub Division, Azamgarh.
3. Sanjaya Kumar Maurya Son of Basdeo Maurya r/o Village and P.O. Barasara Aima District Azamgarh.

Respondents

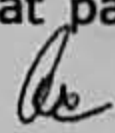
By Advocates Sri Saumitra Singh (for respondent No. 1 & 2)

ORDER

By Justice A.K. Yog, Member (J)

The applicant-Shailendra Pratap Singh approached this Tribunal by filing O.A. No. 742 of 1999 under Section 19 of the Administrative Tribunals Act, 1985 seeking relief to quash the appointment of one Sanjaya Kumar Maurya-respondent No.3 who has been appointed vide appointment order dated 11.03.1999/annexure-7 to the O.A.

2. The brief facts of the case are that applicant was working as a substitute on the post of Extra Departmental Runner (EDR). However, it is not clear that whether Sanjaya Kumar Maurya-respondent No. 3 had worked in the department in any capacity or not. The department initiated process of selection. According to the Counter Affidavit, six candidates had applied for including the applicant and respondent No. 3-Sanjaya Kumar Maurya. The applicant and respondent No. 3 had secured equal marks and were at par as far as merit was concerned.



According to the counter, the applicant was not preferred vis-à-vis on the respondent No. 3 on the ground that his brother was working as Branch Post Master in the same Post Office. There is nothing on record to show that any inquiry was done or any information was solicited from the applicant to show otherwise. On the other hand applicant contends that he was adopted by one Sri Baij Nath Singh. The pleadings on this aspect from either side are incomplete and vague. The respondents, however, preferred to offer appointment to respondent No. 3-Sanjaya Kumar Maurya. Feeling aggrieved, the applicant has filed the present O.A.

3. Learned counsel for the applicant submits that in view of decision of Apex Court in the case-Civil Appeal No. 16753 of 1996 Bali Ram Prasad vs. Union of India and others. Learned counsel for the applicant, however, submits that in view of aforesaid Judgment this ground of not appointing the near kith and kin of the employee in the same Post Office, where appointment is to be made, could not be taken into account for rejection the claim of the applicant.

4. Learned counsel for the applicant submits that he ought to have been given preference since he has already worked with the department in that very Branch.

5. On the above aspects/submissions made from either side, we do not find adequate pleadings. Apparently parties are trying to improve upon their cases at this stage of hearing.

6. However, in the interest of justice, we find that claim of the applicant vis-à-vis respondent No. 3 should not have been rejected arbitrarily or whimsically and ^{as the as} same should have been considered and decided on the basis of relevant rules and instructions in a situation where two of more candidates secured same marks.

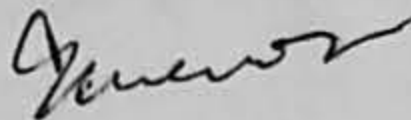
7. In view of the above, we direct the applicant to file detailed representation before the Senior Superintendent of Post Offices, Azamgarh (who has not arrayed as a party) alongwith certified copy of this Order as well as complete copy of the O.A. (with all annexures) within 4 weeks from today and if such representation is filed, the said authority, if certified copy of the order is being filed within the time stipulated and contemplated above, the aforesaid authority shall decide the same by passing a reasoned and speaking order within a period of 6

/s/

weeks from the date of receipt of certified copy of this order. The decision taken shall be communicated to the applicant

8. It is made clear that continuation of Sanjaya Kumar Maurya-respondent No. 3 in service shall be subjected to any order, which may be passed on the representation preferred by the applicant

9. There shall be no order as to costs.



Member (A)



Member (J)

/M.M/