

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 761 of 1999

Allahabad this the 11th day of July, 2001

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

Jitendra Singh Gujar aged about 27 years, Son of Atar Singh, resident of village Chirgaon Khurd Post Office Chirgaon Khurd, via Post Samthar Tahsil Moth District Jhansi.

Applicant

By Advocate Shri G.S. Bhatt.

Versus

1. Union of India through the Secretary, Ministry of Communication, New Delhi.
2. The Senior Superintendent of Post Office, Jhansi Division, Jhansi.
3. The Post Master General, U.P. at Lucknow.
4. Parmal Singh Son of Laloo Singh, village and Post Office Chirgaon Khurd(Samthar), District Jhansi.

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 setting aside the impugned order dated 05.04.99 by which respondent no.4-Parmal Singh has been appointed as Extra Departmental Branch Post Master Chirgaon Khurd(Samthar)District Jhansi. A direction is sought to the respondents to

appoint the applicant as Extra Departmental Branch Post Master(for short E.D.B.P.M.) Chirgaon Khurd , (Samthar) District Jhansi.

2. That applicant has claimed that he is a candidate belonging to Backward class, is a permanent resident of village Chirgaon Khurd, own agricultural land in village Chirgaon Khurd(Samthar) and has his independent source of income, but his application was not considered for the post of E.D.B.P.M. Chirgaon Khurd(Samthar) because respondent no.2 had notified the vacancy to Employment Exchange and the applicant's name had not been sponsored by the Employment Exchange. The applicant filed an O.A.No.919/98 before this Bench of Tribunal and the name of the applicant was considered in pursuance of the order passed by the Tribunal. The applicant was, however, not appointed despite the fact that he had the highest merit and highest marks in the High School. The reason for not considering the applicant was that the applicant was involved in a case under Section 147, 323, 325, 504 and 506 I.P.C. The applicant claims that he was tried and acquitted of charges by the Judgment and Order dated 30.9.1989 by IIIrd Additional Munsif Magistrate, Jhansi. Therefore, there was no reason not to appoint the applicant.

3. We have heard Shri G.S. Bhatt for the applicant and Km.S. Srivastava for respondents no.1 to 3. The respondent no.4 has not filed his appearance in this case although sufficient time has elapsed after notice was sent to respondent no.4.

4. The short issue in this case is whether the respondents would have rejected the candidature of the applicant on the ground that he was involved in the said criminal case.

5. We find that by letter- dated 18.11.1998, the Station House Officer of Samthar, District Jhansi had reported that Crime No.71 of 88 had been registered against the applicant and the character of the applicant could not be certified as good on the basis of this record. There is a report of Inspector, Local Intelligence Unit, Jhansi filed by the respondents along- with the counter-reply, in which it has been stated that there is nothing against the applicant in the Office of Inspector, L.I.U., Jhansi.

6. Although the respondents were within their right to have reject the candidature of the applicant on the report of Station House Officer, Samthar, the report of Station House Officer Samthar, however, appears to be absolutely incorrect and motivated. The Station House Officer has referred only registration of Crime No.71/88, but have not referred the acquittal of the applicant by the IIIrd Additional Munsif Magistrate, Jhansi by the Judgment dated 30th September, 1989. The Judgment clearly indicates that the crime under Section 147, 323, 325, 504 and 506 I.P.C. had not been proved as they were not supported by the evidence of witnesses, who had appeared in the case, therefore, the applicant had been acquitted as early as on 30.09.1989. The rightful claim of the

applicant has been jeopardized by the respondents on the report of Station House Officer, Samthar, which is clearly motivated. We, therefore, direct the respondents to take action for termination of services of respondent no. 4 under Rule 6 and consider the appointment of the applicant, if he is otherwise eligible. The respondents shall comply with the direction within a period of 3 months from the date of communication of this order. There shall be no order as to costs.

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Member (J)

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Member (A)

/M.M./