

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 0<sup>th</sup> day of February, 2005.

Original Application No. 774 of 1999.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.  
Hon'ble Mr. S.C. Chaube, Member- A.

Bhagwan Das Rathor S/o Sri Nokhey Lal Rathore,  
R/o Village and Post- Suhas,  
Pargana and Tehsil - Bishalpur, Distt. Pilibhit.

.....Applicant

Counsel for the applicant :- Sri A.K. Sachan

V E R S U S

1. Union of India through M/o Post & Telegraph,  
Secretariate, New Delhi.
2. The Post Master General, Bareilly Region,  
Bareilly.
3. Senior Superintendent of Posts, Nainital.
4. District Employment Exchange, Pilibhit, UP.
5. Sri Pal Varma S/o Sri Dhakan Lal Verma,  
R/o Hemlet Gheuna of Village Pipariya Bhaja,  
Post- Suhas, Pargana & Tehsil- Pilibhit,  
Distt. Pilibhit. U.P.

.....Respondents

Counsel for the respondents :-

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

Challenge herein is the validity of appointment of  
vth respondent to the post of EDBPM, Suhas in district  
Pilibhit. The applicant as well as the Vth respondent were  
amongst the candidates who were considered for appointment  
to the post in question in respect of which the vacancy was  
notified vide notification dated 09.09.1998. Concededly  
appointment to the post is required to be made on the basis  
of merit which is judged in terms of the marks obtained in  
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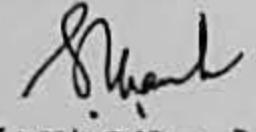
the matriculation examination. In para 10 of the CA filed by Sri M.D. Tiwari, SSPOS, Nainital Division, it is contended that the applicant secured highest percentage of marks in the high school examination and on that basis he ought to have been appointed but he could not be selected and appointed because of the reason that Khatauni produced by him indicates that the property owned by him was acquired during his minority and was, therefore, "not free hold". This reasoning cannot be countenanced. The other reason as given in paragraph No. 8 of the Suppl. CA is that in the Khatauni, the property was owned jointly with other brothers. This, according to the respondents, would indicate that the applicant did not have landed property in his name. The selected candidate, according to the respondents, did have property in his own name. This again, in our opinion, is not a valid ground to deny appointment to the applicant who had secured highest marks in the high school examination. Under the rules, the appointment is to be made on the basis of merits to be judged in terms of the marks obtained in the High School Examination. The requirement of having property exclusively in the name of the candidate is nowhere provided under the rules. Further, mere fact that the property was owned by the applicant jointly with his brothers does not mean that he did not have independent source of income. In Full Bench decision in H. Lakshmana and others. vs. The S.S.P.Os, Bellary and others, ATJ (Full Bench) 2003(1), the applicant therein was denied appointment on the ground that he did not possess the adequate means of livelihood. It was held that adequate means of livelihood was neither an absolute condition nor a preferential condition requiring to be considered for appointment to the post of EDBPM.

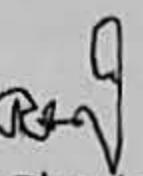
2. Accordingly the O.A succeeds and is allowed. Appointment of respondent No. 5 is quashed. The respondent No. 3

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is directed to issue appointment order in favour of the applicant who secured highest marks in the High School examination amongst all the candidates. Order will be implemented within a period of two months from the date of communication of this order. No costs.

  
Member-A.

  
Vice-Chairman.

/Anand/