

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1229 OF 2000  
ALLAHABAD THIS THE 17TH DAY OF MAY, 2004

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J  
HON'BLE MR. S. C. CHAUBE, MEMBER-A

Kapil deo yadava,  
son of Sri Raj Ram Yadav,  
resident of Village-Kanaina,  
Post office Tekama,  
District-Azamgarh. ....Applicant

( By Advocate Sri N. Tewari )

Versus

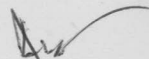
1. Union of India,  
through Chief Post Master General,  
U.P., Lucknow.
2. The Post Master General, Gorakhpur.
3. The Senior Superintendent Post Offices,  
Azamgarh Region, Azamgarh.
4. The Regional Deputy Inspector of  
Post Offices, Sub- Post Office-Lalganj,  
District-Azamgarh.
5. Sri Ravi Bhusan Yadav,  
son of Sri Ram Dular Yadav,  
resident of Village Sarai Paltu,  
Post Office Sarai Paltu,  
District-Azamgarh. ....Respondents

( By Advocate Sri R. C. Joshi )

ORDER

HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

This O.A. has been filed under section 19 of



Administrative Tribunals Act 1985, seeking for the following reliefs:-

"i) issue an order or direction commanding the respondents to produce the entire papers record pertaining to the appointment of respondent no.5 on the post of E.D.D.A. at Branch Post Office Jamuanwa District Azamgarh including letter dated 24.8.2000 and thereafter the appointment of the respondent no.5 may be quashed.

ii) issue a writ, order or direction commanding the respondents to consider the appointment of the applicant according to rule on the post of EDDA i.e. Extra Departmental Delivery Agent at Branch post Office Jamuanwa District Azamgarh."

2. The facts giving rise to this application as per applicant is that a permanent post of Extra Departmental Delivery Agent at Branch Post Office Jamuanwa, District-Azamgarh fell vacant and applications were invited from the candidates for that post vide notice dated 20.07.2000. The applicant applied for the post. The minimum qualification for the post was 8th Class. The candidates having passed High School was said to be provided preference. The applicant has passed 8th class with 63% marks. It is also claimed that the applicant passed High School / <sup>with</sup> 58.5% marks while respondent no.5 passed the same with 49.8% marks. The grievance of the applicant is that even though the applicant was most merited candidate but the respondents have given appointment to respondent no.5 who got less marks in 8th and High School Examination.

3. Learned counsel for the applicant submitted that respondent no.5 has been given entry from back door which is in clear violation of Principles of Natural Justice.

~~XXXX~~ The appointment of respondent no.5 has been made without following the procedure under the Departmental Rules.

4. The learned counsel for the applicant further

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submitted that the applicant has represented to respondent no.4 with copies to P.M.G., Gorakhpur and S.S.P. Azamgarh for the redressal of his grievances, but the respondents instead of deciding the same appointed respondent no.5 who was less qualified than the applicant.

5. Resisting the claim of the applicant respondents filed CA against which RA was filed by the applicant.

Learned counsel for the respondents inviting our attention of CA to para 15/submitted that since the respondent no.5 fulfilled all the eligibility conditions, hence he was rightly and legally appointed, so no illegality can be said to have been committed by the respondents in appointing respondent no.5.

6. We have heard counsel for the parties and perused the pleadings available before us.

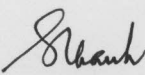
7. We have gone through para 6 of the CA in which a comparative chart of percentage of marks of the applicant was given. It shows that the applicant secured 58.5% marks and respondent no.5 secured 49.8% marks. We have also gone through para 7 of the CA which shows that the applicant instead of giving his income certificate has submitted the income certificate of his father. On perusal of the comparative chart given in para 6 of the CA we are not able to understand as to why the applicant was not considered for the post concerned where he secured better percentage of marks than respondent no.5. However, without going into the merits of the case, we find it appropriate to give an opportunity to the applicant to file a fresh and detailed representation to respondent no.2 who shall decide the same with a reasoned

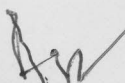
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and speaking order within a specified period.

8. Accordingly the O.A. is disposed of with a direction to applicant to file his representation to respondent no.2 within two weeks from the receipt of a copy of this order and respondent no.2 is directed to decide the same within a period of two months from the date of receipt of such a representation alongwith copy of this order.

9. There shall be no order as to costs.

  
Member-A

  
Member-J

/Neelam/