

**RESERVED**

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

THIS THE 26<sup>th</sup> DAY OF SEPT. 2005

**Original Application No. 1432 of 2000**

CORAM:

**HON.MR.K.B.S.RAJAN, MEMBER(J)**  
**HON.MR.A.K.SINGH, MEMBER(A)**

Krishna Kant Tiwari, son of Late Awarh  
Narain Tiwari, r/o village Nahwayi,  
District Allahabad. Applicant

By Advocate : Sri Satish Dwivedi

Versus

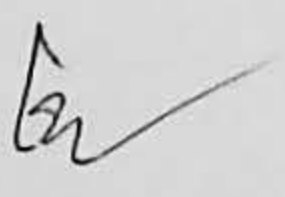
1. Union of India through the Secretary  
Ministry of Posts, Govt. of India,  
New Delhi.
  2. The Sr. Superintendent of Post Offices,  
Allahabad Division, Allahabad.
  3. Sri Awadesh Kumar Tiwari, son of  
Shri Ram narain Tiwari, resident of  
Village and post Nahwayi, tehsil  
Meja, district Allahabad.
- Respondents.

By Advocate : Sri A. Srivastava

**ORDER**

**BY K.B.S. RAJAN, MEMBER-J**

This application can be disposed of by a crisp  
order in view of the fact that the subject matter is short,  
simple and straight.



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2. A post of EDBPM at Nahwai, Tehsil Meja in UP fell vacant as early as in 1995 and certain candidates were sponsored by the Employments Exchange. They are as under:-

- (a) Shri Awdesh Kumar Tiwari
- (b) Shri Anil Kumar
- (c) Shri Prem Shanker
- (d) Shri Krishna Kumar Tiwari
- (e) Shri Prabhu Nath Mishra.

3. Earlier, it was Shri Prabhu Nath Mishra who was sought to be appointed in the post and this had resulted in Shri Awdesh Kumar Tiwari filing an O.A. No. 911 of 1995, in which the said Prabhu Nath Tiwari was impleaded as private respondent. The said OA was allowed vide order dated 03-04-2000 and the following are findings and final verdict of the Tribunal:-

"It is seen from the records that the applicant is qualified for appointment as EDSPM as per age and educational qualification. He is also a resident of village Nahawai and his family income is Rs. 18000/- per year, as per certificate issued by Tehsildar, Meja (Annexure 1 to the OA). He has also secured more marks in the High School Examination as compared to the respondent no.5. In fact respondent no.5 has failed in one of the subjects and could pass the High School in supplementary Examination. It is clear from the facts that the applicant is more meritorious as compared to respondent no.5, since he has secured more marks in High School Examination as compared to respondent no.5. The reasonable course would have

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been to offer ED Employment to the applicant.”

4. In the light of the above facts the OA is allowed and the appointment of respondent no.5 is quashed. It is directed that the matter be re-examined by the respondents in the light of the above observation from amongst the candidates already sponsored by the Employment exchange. No order as to costs.

5. Against the said order the private respondent had filed a civil writ petition No. 17822 of 2000 and the said writ petition was dismissed, vide order dated 25-04-2000.

6. In the wake of the above development, the respondents had reviewed the entire situation and on the basis of the marks obtained by the respondent No. 4 in this OA requisitioned from the competent authorities as to the extent of annual income that the said private respondents is earning. This was issued by the authorities on 15-06-2000 and the said respondent was appointed as EDBPM of the said post office by the respondents.

7. Aggrieved by the above appointment, the applicant who was one of the Employment Exchange sponsored candidates had assailed the said order on the ground



that main qualification of private income of the respondent has not been fulfilled inasmuch as the Tehsildar by an order passed in October, 2000 cancelled the earlier certificate rendered in 1995. As such, the said respondent is incapacitated from being appointed to the said post.

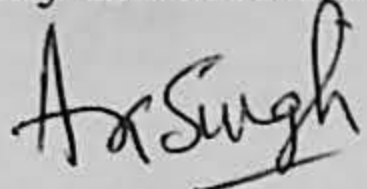
8. The OA was contested by the private as well as official respondents.

9. Arguments were advanced and the documents perused. Admittedly, the private respondent is the highest scorer of marks in the High School, which is the main criteria in the case of appointment as EDBPM. Next one is owning a house and property in the place where the post office is situated. This has been satisfactorily proved by the respondent and it was after duly satisfying that the official respondents have appointed the said private respondent. There appears no proof on the side of the applicant to prove the varacity of the so called cancellation of income certificate.

10. Citations referred by the respective side need not be considered in view of the settled position of law and the case being thoroughly simple.



11. In view of the above, the OA being devoid of merits, merits only dismissal and we order accordingly. No cost.



MEMBER-A



MEMBER-J