

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 406 of 2000

Tuesday this the 11th day of May, 2004

Hon'ble Maj. Gen. K.K. Srivastava, A.M.
Hon'ble Mr. A.K. Bhatnagar, J.M.

Prabhakar Pendey,
Karya Vahak Sakha,
Dak Pal,
Raikwarhi, Mau.Applicant.

(By Advocate : Shri R. Yadav)

Versus

1. Union of India,
through Secretary,
Ministry of Communication,
New Delhi.
2. Chief Post Master General,
Parimandal (226007) U.P.
Lucknow.
3. Upper Dak Adhikshak,
Mandal, Azamgarh.Respondents.

(By Advocate : Shri R. C. Joshi)

O R D E R

By Hon'ble Maj. Gen. K.K. Srivastava, A.M. :

In this OA, filed under Section 19 of A.T. Act, 1985,
the applicant has prayed for quashing the notification dated

....2.

8.3.2000 (Annexure-I) by which the post of E.D.B.P.M. Raikwardih, District Mau has been declared as reserved for OBC. The applicant has prayed for direction to the respondents to appoint him on the post. The grievance of the applicant is that he has been working in respondents' establishment for the last 20 years as ED Postman. He fulfils the eligibility conditions for the appointment on the post of E.D.B.P.M. and since the post in question is vacant in the same office where he is working, he has a right to be appointed on the same without resorting the regular selection. Learned counsel for the applicant submitted that vide D.G. Posts letter dated 12.9.1988, the applicant has right to be appointed as E.D.B.P.M. The post of EDBPM fell vacant on 28.1.1999 and the applicant was given the charge of the office on which he worked satisfactorily for more than one and a half years.

2. Learned counsel placing reliance on the judgment of Hon'ble Supreme Court in the case of Ajit Singh & ors. Vs. State of Punjab & ors. (2000) 1 UPLBEC 195) submitted that it is a fundamental right of the applicant to be considered for the appointment on the post. Learned counsel also submitted that as per the settled law a single post cannot be reserved and, therefore, the notification dated 8.3.2000 under challenge is liable to be set-aside.

3. Resisting the claim of the applicant, learned counsel for the respondents submitted that it is not disputed that the applicant was engaged on the post of EDBPM and he has worked for one and a half years. However, he could not be appointed because the post of EDBPM is reserved for OBC. The applicant did not apply for the post but since the post was reserved for OBC, the application of the applicant was not considered as he does not belong to OBC and is ^{an} _A general category candidate.

4. After hearing counsel for the parties, we would like to observe that the contention of the learned counsel for the applicant that a single post of EDBPM cannot be reserved, is not correct. The law laid down on the subject is not applicable in the case of E.D.A. as every Branch Post Office has a single EDBPM. If this principle is applied then there will be no chance for any reserved category person to be appointed as EDBPM. In fact, the reservation policy in a Postal Division in respect of E.D.As is applied keeping in view the entire strength of the EDAs in the Postal Division.

5. From perusal of Annexure-II which is the application of the applicant dated 6.4.1999 addressed to respondent No.3, we find that the applicant had requested for appointment as EDBPM under the provisions of D.G. Post circular dated 12.9.1988 which reads as under :-

"When an ED post falls vacant in the same office or in any office in the same place and if one of the existing EDAs prefers to work against that post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange, provided he is suitable for the other post and fulfils all the required conditions."

However, it appears that no decision was taken by respondent No.3 on the application of the applicant dated 6.4.1999. The applicant again, after the issuance of the notification dated 8.3.2000, represented before Chief Post Master General on 18.3.2000. We fail to understand as to what prompted the applicant to approach the Chief Post Master General in this regard as the Chief Post Master General, U.P. Circle has no role to play. We cannot accept that the applicant, who has been working in the department for the last 20 years, was so ignorant that he did not know that the proper



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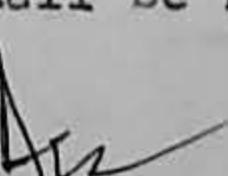
authority in the matter was the Post Master General, Gorakhpur. However, ignoring this, we would like to observe that the respondent No.3 should have considered the request of the applicant dated 6.4.1999 in detail and taken a decision before issuing the notification dated 8.3.2000.

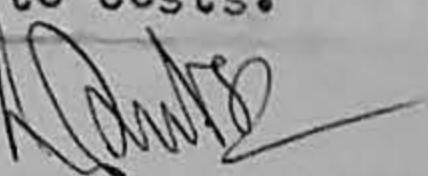
6. On the basis of record available, we are unable to work out if reservation of the post of EDBPM Raikwardih was done correctly or not by respondent No.3. Therefore, in the interest of justice, we consider it necessary that the issue is examined in detail at higher level i.e. at the level of Post Master General, Gorakhpur. We hope that the Post Master General, Gorakhpur will examine the case of the applicant in view of the circular of D.G. Post dated 12.9.1988 and also from the angle whether reservation of the post of EDBPM Raikwardih for OBC was done correctly or not by the respondent No.3.

7. In the facts and circumstances and our aforesaid discussions, we direct the applicant to file a detailed representation before Post Master General, Gorakhpur annexing the copies of the relevant applications dated 6.4.1999 and 18.3.2000 alongwith the order of this Tribunal and the Post Master General, Gorakhpur shall decide the same by a reasoned and speaking order covering the specific points given in the representation.

8. This Tribunal by order dated 24.4.2000 had held that any fresh selection to the post shall be subject to final result of this OA. In view of this we direct Post Master General, Gorakhpur that in case he finds that the claim of the applicant is justified, he shall pass necessary orders.

9. There shall be no order as to costs.


MEMBER (J)


MEMBER (A)

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