

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 3rd DAY OF AUGUST, 2009)

PRESENT :

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MR. S.N SHUKLA, MEMBER- A

ORIGINAL APPLICATION NO. 78 OF 2000
(U/s, 19 Administrative Tribunal Act.1985)

Kuber Nath Verma, aged about 33 years, S/o Shri
Vishwanath Verma, R/o Mohalla Buddhapura Par, Post
Sikandarpur, District Ballia.

.....Applicant

By Advocate : Shri R. Verma/Shri S.K. Pandey

Versus

1. Union of India, through the Secretary, Ministry of
Communication, New Delhi.
2. The Superintendent of Post Offices, Ballia Division,
Ballia.
3. Shri Brajesh Kumar, S/o Shri Sarvaroo, Village & Post
Jajauli, District Ballia.

..... Respondents

By Advocate : Shri Amit Sthalekar
Shri M.B Singh
Shri Jagannath Singh

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

Heard learned counsel for the parties at length.

2. By means of this O.A., applicant seeks to challenge
notification/advertisement dated 26.7.1999 in making
appointment of E.D.B.P.M on the ground that clause 8 in the
said advertisement/notification contemplating preference to
Scheduled Caste candidate in selection being illegal and
arbitrary.

Asy

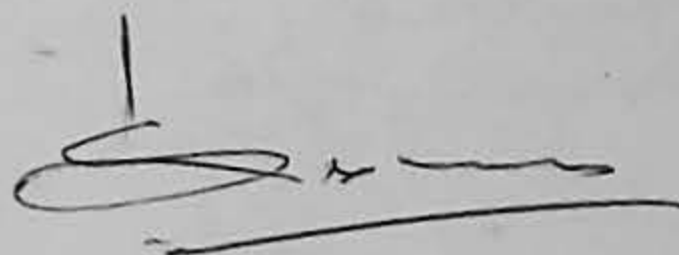
3. There is no dispute that applicant had also applied and participated the selection proceeding. Respondent NO. 3/Shri Brajesh Kumar, a Scheduled Caste candidate was, however, selection on its merit.

4. On behalf of respondents NO.1 and 2, a counter affidavit has been filed. Para 15 of the said counter is being reproduced below:-

"15. That the facts stated in para 4 (11) of the petition are incorrect and are denied. It is stated that apart from belonging to S.C. community, Shri Brijesh Kumar respondent NO. 3 had secured 330 out of 600 marks i.e. 55% whereas the petitioner who was General candidate had secured 250 out of 600 i.e. 51.2% and thus the respondent No.3 was is any case higher in merit, then the petitioner".

5. Applicant have filed rejoinder but categorical facts (stating that Brijesh Kumar had secured 330 marks out of 600 marks whereas the applicant had secured 250 marks out of 600 marks) has not been done. Contention of the applicant fails in view of admitted factual position that Brijesh Kumar/respondent NO. 3 have obtained more marks and no question involved of his being appointed on the basis of preference. It is also to be appreciated that applicant had appeared in the selection on the basis of notification, he took charge and he has admitted to turn round and seek to challenge selection as an afterthought. This is not permissible under law. Further it is to be noted that respondent No. 3 has worked for more than 7 years and it is neither justifiable in law or equity to dislodge him at this stage.

6. O.A. has no merit and it is accordingly dismissed. No costs.



Member (A)



Member (J)

Manish/-