

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 8th day of January, 2002.

Original Application No. 1070 of 2000.

CORAM :-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiquddin, J.M.

Arvind Bahadur Singh Son of Sri Bageshwar

Prasad Singh, resident of Village and Post
Deora, Karchana district Allahabad.

(Sri MM Sahai, Advocate)

..... Applicant

Versus

1. Union of India, through the Secretary,
Ministry of Communication,
Department of Posts and Telegraphs,
New Delhi.

2. Senior Superintendent of Post Offices,
Allahabad.

3. Prabhakar Shukla Son of Sri Rama Kant Shukla,
Resident of Village Deora (Lokmanya pur),
Post Office Deora, Karchana, district
Allahabad.

(Sri DS Shukla/Sri SK Pandey/
Sri Amit Sthalekar, Advocates)

... Respondents

ORDER (Oral)

By Hon'ble Mr. S. Dayal, A.M.

This OA has been filed under Section 19 of the
Administrative Tribunals Act, 1985 with the prayer for
setting aside of the order of appointment dated 3-8-2001
and a direction to the respondents to appoint the applicant
as E.D.B.P.M. as he stood 2nd in the merit list.

2. The facts of the case are that the Senior Superintendent of Post Offices, Allahabad sent a requisition to the Employment Exchange, Allahabad notifying vacancy on the post of E.D.B.P.M. Deora vide letter dated 6-11-1997. Five candidates were sponsored by the Employment Exchange which did not include the name of respondent no.3. Respondent no.3 applied directly and filed the OA No.13/1997 and OA No.32/1998 in which interim order was passed for considering the candidature of the applicant(respondent no.3). The case of the applicant is that candidature of respondent no.3 ^{to be} which was ^{so} ~~considered~~ strictly in accordance with rules was not ^{considered} ~~considered~~ and, therefore, the appointment given to him is void ab initio.

3. We have heard arguments of Sri MM Sahai, Counsel for the applicant, Sri DS Shukla, counsel for Official Respondents and Sri Amit Sthalekar, counsel for the private respondent.

4. The controversy raised before us is regarding non-submission of Income Certificate by respondent no.3 within time and non-submission of proof of landed property required as per Condition No.4 of the requisition sent to the Employment Exchange.

5. We find that the applicant has alleged in the OA that the Income Certificate was obtained by respondent no.3 on 5-3-1998. It was further submitted that since income certificate was obtained on 5-3-1998, it could not have been submitted on 15-12-1997.

6. In response to the assertions of the applicant, the Counsel for the Official Respondents has mentioned in para 19 of his counter affidavit that the income certificate was granted by the Tahsildar Karchana on 12-1-1994 and was submitted by the respondent no.3

alongwith his application dated 16-12-1997. Respondent no.3 in his counter reply has stated that he had already submitted the photocopy of his Jotbahi ~~as~~^{as} proof of his landed property and that respondent no.3 has also proved his independent source of income from the said property and that the Income Certificate dated 5-3-1998 did not render his application ~~as~~ invalid. The fact of submission of Jotbahi is not controverted by the applicant.

6. The applicant has brought to our notice ~~whether~~ the question posed to Tahsildar Karchana and answer of Tahsildar Karchana which showed that on 5-3-1998 the certificate of income was granted by the Tahsildar to respondent no.3. He has also mentioned that the reply of the official respondents and the private respondent are contradictory. We do not consider the argument that the income certificate was not submitted by the applicant alongwith his application in the face of a clear averment by the official respondent that they have received income certificate alongwith the application of the applicant and the income certificate dated 12-1-1994. The fact of issue of income certificate in 1998 and 1994 cannot be negated or considered contradictory.

7. Learned counsel for the applicant submits that he had posed another interrogatory to Tahsildar Karchana, which has been submitted alongwith the rejoinder affidavit. It has been mentioned in the interrogatory that respondent no.3 was not granted any income certificate on 12-1-1994. Even if it is argued that such an income certificate was not available alongwith the application of the applicant dated 15-1-1997, the fact of submission of Jotbahi which is not controverted, also shows that respondent no.3

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had independent source of income. Therefore, the ground on which the applicant has assailed appointment of respondent no.3 cannot be accepted. The application is, therefore, dismissed as lacking in merits. There shall be no order as to costs.

Raijindar Singh
Member (J) Member (A)

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