

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 21st day of November, 2001.

Original Application No.1096 of 2000.

CORAM:-

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

Hon'ble Mr. Rafiquddin, J.M.

Vinod Kumar Singh, aged about 27 years,
S/o Shri Babban Singh,
R/o Village & Post-Siswar Kalan,
District-Ballia.

(Sri Rakesh Verma, Advocate)

..... Applicant

Versus

1. Union of India through the Secretary, Ministry of Communication, New Delhi.
2. The Assistant Superintendent of Post Offices, Rasara Sub Division, Rasra, District Ballia.

(Sri R.C. Joshi, Advocate)

..... Respondents

O R D E R (O r a l)

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

This application has been filed for setting aside the notification dated 11-7-2000. By the aforesaid notification respondents have asked the Employment Exchange, district Ballia, to send names of suitable candidates for the post of EDDA/EDMC, Sarayan via Garwar, district Ballia.

2. It is claimed by the applicant that he was working as EDDA/EDMC, Sarayan(Garwar) as substitute on the responsibility of Shri Babban Singh, EDDA, Rasoolpur (Rasra) w.e.f. 1-3-2000. The respondent no.2 issued the impugned notification in order to make regular appointment on the aforesaid post. The applicant claims to have applied for appointment on the aforesaid post directly through the registered post.

It is claimed by the applicant that the notification should be quashed because the post has been shown as unreserved but it has been mentioned therein that preference should be given to the Scheduled Caste community. The applicant claims that in the context of post based reservation such a clause could not have been introduced in the notification. The applicant has also claimed that Clause 5 stipulates that the candidates must be having independent source of income and Clause 7 stipulates that the candidates should not be near relative of any postal employee. The applicant claims that he is son of postal employee, Sri Babban Singh, who was working as EDDA, Rasoolpur and, therefore, his selection was barred on account of such a condition.

3. We have heard the arguments of Sri Rakesh Verma, counsel for the applicant and Sri Chandrika Prasad, briefholder of Sri RC Joshi, Senior Standing Counsel, for the respondents.

4. We find from the counter reply filed by the respondents that the notification clearly stated that the post was unreserved and the clause regarding preference to be given to the Scheduled Caste/Scheduled community was scored out. We find from Annexure-A-1 that this claim of the respondents is correct. Learned counsel for the applicant in the light of this fact does not presses this contention.

5. We find that the respondents have stated that no application of the applicant for appointment has been received in the Office/^{of} Assistant Superintendent of Post Office, Rasra.

6. We find that the respondents have denied that Clauses 5 and 7 of the requisition sent to the Employment Exchange of the notification to general public were not correctly included. We find from

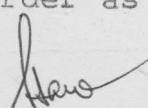
the Swami's Compilation of Service Rules for EDD Staff Chapter III, Method of Recruitment that the qualification of having adequate means of livelihood prescribed for EDSPM/EDBPM, income and ownership criteria is not made applicable to EDDA. Therefore, the prescription of such a condition is clearly untenable in inviting applications for recruitment of EDDA.

7. Learned counsel for the applicant has relied on the case of Baliram Prasad Vs. Union of India and Ors, 1997 SCC (L&S) 466, in which the appointment of near relative being a bar on appointment, is held to be violative of Article 14 of the Constitution of India based on the decision of 17-10-1963. Therefore, such a clause would also operate against a person desirous of applying against the notification and the persons who are considered on the basis of sponsorship of Employment Exchange on account of their applications sent directly to the respondents.

8. We have considered the question of locus standi of the applicant in the context of the provisions of Section 19 of the Administrative Tribunal Act, 1985. We find that a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal can make an application to the Tribunal for redressal of his grievance. In the present case the applicant claims to be working as substitute on the post of EDDA/EDBPM, would have a right to prefer such an application. We, therefore, hold that the notification is not valid as per Recruitment Rules and the law laid down by the Apex Court and has to be set aside. The respondents are directed to issue fresh notification to fill up the post of EDDA/EDBPM on regular basis. The OA stands allowed. There shall be no order as to costs.



Member (J)



Member (A)

Dube/