

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1500 OF 2002
ALLAHABAD THIS THE 8TH DAY OF JANUARY, 2004

HON'BLE MR. V. K. MAJOTRA, VICE-CHAIRMAN
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Jamil Akhtar Khan,
son of Shri Sarfuddin Khan,
resident of Dildarnagar Bazar,
District - Ghazipur.Applicant

(By Advocate Sri R.K. Nigam)

Versus

1. Union of India,
through its Secretary,
M/o Communication ,
Department of Postal,
Government of India,
New Delhi.
2. Chief Post Master General,
U.P. at Lucknow.
3. Director Postal Services,
Allahabad Zone, Allahabad.
4. Assistant Superintendent Post Offices,
Zamania, District - Ghazipur.
5. Superintendent Post Master,
Ghazipur.
6. Shiv Bachan Ram,
son of Shri Shyam Narain Ram
resident of Village Chitrakoni,
Post Sihani, District-Ghazipur.

.....Respondents

(By Advocate Shri R.C. Joshi & Shri A.K. Pandey)

ORDER

HON'BLE MR. V. K. MAJOTRA, VICE-CHAIRMAN

Applicant has challenged the order dated 11.11.2002 (Annexure A-1) whereby his representation dated 15.01.1998 has been decided and his appointment as E.D.M.P. has been cancelled. These orders were passed by the respondents on direction contained in order dated 07.05.2002 in O.A. No.1946/02. Learned counsel of the applicant submitted that the impugned order was passed by the respondents without following Principles of Natural Justice and without issuing any show cause notice to him.

2. Learned counsel for the applicant pointed out that in his earlier O.A. No.1946/02, applicant had challenged the appointment of respondent no.5 on the post of E.D.D.A. which was disposed of as stated above with direction to respondents to decide applicant's representation of 15.01.1998 by a reasoned, speaking order.

3. On the other hand, it has been stated on behalf of the respondents that the post of E.D.B.P.M., Sihani Branch Post Office, Gahzipur fell vacant on 29.08.1997. Vide memo dated 15.09.1997 the said post was advertised. In the advertisement, conditions were laid down that candidates should be resident of either Dildarnagar town or area falling within the jurisdiction of Sihani Branch Office. Preference was to be given to Schedule Caste candidates, according to rules. On receipt of a complaint that the said advertisement had been issued in improper way, a fresh advertisement was issued vide memo dated 24.11.1997, ^{prescribing the} ~~professing~~ ⁱⁿ condition that candidates ~~who~~ either be resident of Dildarnagar area or from delivery jurisdiction of Sihani Branch Office. It was

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further prescribed that preference will be accorded to SC candidates in accordance with Rules and the departmental quota. Nine applications including that of the applicant were received. Learned counsel supplemented that criterion for selection for appointment on the said post is High School results, ~~and~~ the name of the applicant appeared at serial no.6 on the basis of marks obtained by him in the High School examination. The condition for giving preference to SC candidates was also not taken into consideration while selecting and appointing the applicant. In this background applicant's appointment in violation of the conditions of selection was wrong. Private respondent Shri Shiv Bachan Ram, the only SC candidate, complained against the illegal appointment of the applicant. He filed O.A. No.1947/02 which was decided by this Tribunal vide order dated 07.05.2002 directing the respondents to decide ~~the~~ representation ~~the matter~~ ~~in~~ ~~due~~ ~~time~~ by a reasoned and speaking order. The respondents have taken a stance that the impugned order (Annexure A-1) is merely an internal correspondence between officials of the department and not an order of cancellation of ~~services~~ ^{appointment} of the applicant and as such, this O.A. is not maintainable. It was also contended on behalf of the respondents that as no final orders, cancelling the appointment of the applicant have been passed, the question of violation of the Principles of Natural Justice would not arise.

4. We have carefully considered the rival contentions, Annexure A-1 is certainly an order rejecting the representation of the applicant. The contention of the respondents that this order is an internal correspondence between two officials of the department ^{is incorrect; b} factually these are final orders on the representation of the applicant. Even the Superintendent, Post Ghazipur, would ^{also b} issue order of cancellation of the

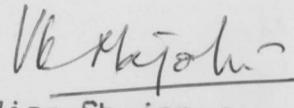
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appointment of the applicant in terms of Annexure A-1 dated 11.11.2002. Representation of the applicant has been rejected vide Annexure A-1 taking into consideration order dated 07.05.2002 in O.A. No.1946/02 filed by respondent no.6. However, legally applicant's appointment cannot be cancelled without following Principles of Natural Justice and without ~~putting~~ paying the applicant on notice.

5. Having regard to the reasons stated and discussion made above, Annexure A-1 dated 11.11.2002 is quashed and set aside with consequential benefits. However, respondents shall be at liberty to take appropriate action by ~~putting~~ paying the applicant on notice, if so advised and also following the Principles of Natural Justice.

6. The O.A. is disposed of as above, however, without any costs.


Member-J


Vice-Chairman
8/1/04

/Neelam/