

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 06th day of November 2003.

Diary Number 3854 of 2002.

O.A.NO. 1410/03

Hon'ble Maj Gen K.K. Srivastava, Member (A)  
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Jagdish Mishra, s/o Sri O.P. Mishra,  
R/o 11B, Rishi Nagar Maholi Road, Mathura,  
Distt. Mathura.

... Applicant

By Adv : Sri R. Mishra, Sri Y Singh and Sri P. Verma

Versus

1. Union of India through D.G. Post,  
New Delhi.
2. Chief Post Master General, UP Circle,  
Lucknow.
3. Post Master General, Agra.
4. S.R.M. Jhansi. (Superintendent Railway Mail Service, Jhansi.)
5. S.R.O. Mathura, (J.N.R.M.S.) Sub Record Officer,  
Mathura.

... Respondents

By Adv : Sri N.C. Nishad.

ORDER

Hon'ble Maj Gen K.K. Srivastava, AM.

In this application, filed under section 19 of the A.T., Act, 1985, the applicant has prayed for quashing the appointment order dated 28.4.1993 appointing the candidates Sri Suresh Shukla, Sri Bhagwat Singh and Sri Raj Kumar Asthana. The applicant has further prayed for direction to the respondents to appoint the applicant on the basis of first list dated 7/11-11-1992.

2.

2. The facts of the case, in short, are that the selection process was initiated by the respondents for filling three vacancies of Extra Departmental Mail Man during 1992. The selection was completed on 28.4.1993 selecting Sri Suresh Shukla, Sri Bhagwat Singh & Sri Raj Kumar Asthana. Aggrieved by the selection done by SRO, Mathura i.e. respondent no. 5, the applicant filed representation on 17.11.1993 followed by reminders on 03.12.1993 & 15.12.1993. The applicant served legal notice on respondents on 05.11.1994 & 12.08.1994. The applicant filed Civil suit no. 99 of 1995 i.e. Jagdish Vs. Union of India & Others before IV Addl. Civil Judge (Junior Division) Mathura. The judgment on the above case was given by IV Addl. Civil Judge (Junior Division) Mathura. The suit was decided against the applicant on merits and dismissed with cost by order dated 05.11.1998. Aggrieved by the judgment of IV Addl Civil Judge (Junior Division), Mathura, the applicant filed appeal before Addl. District Judge (in short ADJ), Mathura on 15.12.1998 which was numbered as Civil Appeal no. 26 of 2001. The same was dismissed with cost vide order dated 28.2.2002. Both the orders i.e. orders dated 5.11.1998 passed by IV Addl Civil Judge (Jr. Division) Mathura and 28.2.2002 passed by ADJ, Mathura, have been filed alongwith the delay condonation application no. 4073 of 2002.

3. We have perused both the above orders i.e. orders dated 5.11.1998 and 28.2.2002. The following has been observed by the IV Addl Civil Judge (Jr. Div.), Mathura in the order dated 5.11.1998:-

"यह विवाधक अनुतोष से सम्बन्धित है । विवाधक संख्या-1 पर

...3/-



3.

दिये गये निष्कर्षों के आधार पर मैं इस निष्कर्ष पर पहुँचता हूँ कि वादी अपने वाद को साबित करने में असफल रहा है तथा वह कोई भी याचित अनुतोष प्राप्त करने का अधिकारी नहीं है। दावा वादी खण्डित होने योग्य है।

आदेश

दावा वादी सब्यय खण्डित किया जाता है। "

para 19 of  
In the judgment dated 28.2.2002, ADJ, Mathura, has given  
his clear observation, which is reproduced below:-

".....इसमें यह भी उल्लेखनीय है कि तीन लोगों की नियुक्ति की जा चुकी है जिन्हें पक्षकार नहीं बनाया गया है और जिन्हें अपना पक्ष रखने का कोई अवसर न्यायालय में प्राप्त नहीं हुआ ऐसी परिस्थितियों में भी अधीनस्थ न्यायालय के आदेश को उचित ही ठहराया जा सकता है।"..... "

It will also be appropriate for us to reproduce para 21  
dated 28.2.2002  
of the judgment of ADJ, Mathura, which is as under :

" 21- "उपरोक्त विवेचन से यह स्पष्ट है कि अधीनस्थ न्यायालय के निर्णय एवं आदेश में हस्तक्षेप का कोई आधार मौजूद नहीं है। निर्णय एवं आदेश तथ्यों के आधार पर न्यायसंगत रूप से पारित किया जाता है। अपीलान्त अपने वाद को साबित करने में असफल रहा है। उनका वाद मेरे विचार से पूर्ण रूप से सब्यय खारिज किया गया। अतः वर्तमान अपील पूर्णतया आधारहीन है और खारिज होने योग्य है।"

आदेश

अपील सब्यय खारिज की जाती है। "

4. From the above, we observed that the case of the applicant was considered and decided on merits and, thereafter, dismissed. On query by us learned counsel for the applicant submitted that these orders have not been challenged before Hon'ble Allahabad High Court. If the applicant was aggrieved by the judgment of IV Addl Civil Judge (Jr Div)

....4/-

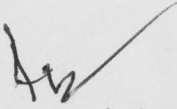
4.


Mathura and also the judgment of ADJ, Mathura, he should have approached the Hon'ble High Court for redressal of his grievance within ~~the~~ period of limitation.

5. In our considered opinion the relief claimed in this application was raised in Civil suit, which has been dismissed on merits. We have no hesitation to observe that the case is barred by resjudicata. We would also like to further observe that the OA is also not maintainable on the ground of non-joinder of necessary parties.

6. In view of the above the application is liable to be dismissed and the same is accordingly dismissed at admission stage itself.

7. There shall be no order as to costs.

  
Member (J)

  
Member (A)

/pc/