

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

original Application No. 345 of 2003.

this the 22nd day of July 2003.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER (A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Mahesh Prasad, S/o late Sri Sharda Prasad, R/o Village Soraon,
post Meza Road, District Allahabad.

Applicant.

By Advocate : Sri B.N. Singh.

Versus.

1. Union of India through its Secretary, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Postmaster General, Allahabad Region, Allahabad.
3. Sr. Supdt. of Post Offices, Allahabad.
4. Subba Lal, S/o Angunu, presently posted as EDBPM, Lohari Post Office Upraura, P.O. Upraura, District Allahabad.

Respondents

By Advocate : Sri G.R. Gupta & A. Tripathi.

ORDER (ORAL)

BY MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., applicant has sought the following relief(s):

- "(i) to issue a writ, order or direction in the nature of certiorari quashing impugned appointment order dated 10.12.2001 issued by respondent no.3 and order dated 5.4.2002 issued by respondent no.2.
- (ii) to issue a writ, order or direction in the nature of mandamus directing the respondent no.3 to provide appointment to the petitioner with all consequential benefits.
- (iii) -----.
- (iv) -----."

2. It is submitted by the applicant that vide notification dated 25.1.99 one post office was to be opened at Lohari under the review post office, Sisra, Allahabad and

the post of EDBPM was reserved for Scheduled Caste category. Accordingly applications were invited and it was made clear in the said notification itself that who so ever is selected for the said post, shall have to provide a suitable accommodation for Extra Departmental Branch post office in village Lohari. He would also have to stay in the same place after his selection or appointment.

3. The grievance of the applicant in this case is that even though he did have highest marks in the Highschool and he had provided the space also in Lohari village, but yet by ignoring his merit, appointment order was issued in favour of Sri Subba Lal. Being aggrieved, applicant filed O.A. no. 49 of 2002 which was decided on 24.1.2002 (page 42) whereby respondent no.2 was directed to decide the representation of the applicant by a reasoned and speaking order within two months from the date a copy of the order was filed before him after hearing the applicant and respondent no.4. The competent authority passed a detailed order on 5.4.2002 (page 24), which has been challenged by the applicant in the present O.A.

4. It is submitted by the applicant's counsel that he is challenging the order of the respondent no.4 on two grounds :

(i) that the authorities have not applied their mind to the fact that the house which was arranged by the applicant on rent from Sri Harish Chandra Yadav was very much in the village of Lohari and since he got highest marks, he should have been appointed as EDBPM in Lohari post office.

(ii) The said Sri Subba Lal was not a resident of Lohari, but he was a resident of Upraura.

5. We have heard the learned counsel for the parties and have perused the pleadings on record.

6. The counsel for the respondents has explained that Upraura is the main revenue village under which number of other villages are situated. In village Upraura, there is

already one post office in existance, but since the village Upraura is a big one and the mail was not being distributed from Upraura, it was decided by the department to open another post office in village Lohari. Therefore, it was necessary to provide a suitable space in village Lohari itself and the place which was made available by the applicant was approx. 20 meters away from the post office already situated in Upraura. Therefore, after enquiry, the candidature of the applicant was not found feasible and the appointment was given to the next candidate, who had secured the next highest marks.

7. The counsel for the applicant was trying to suggest that the place which he had offered was within the Lohari village from the documents which are annexed by him with the O.A. namely so-called reply given by Tehsildar at page 37 as well as identity card at page 57 wherein the address of Sri H.C. yadav was given as Lohari (Dulum ka pura) upraura, Sirsa, Allahabad on the basis of which he has suggested that the residence which was offered by the applicant of Sri H.C. Yadav was very much in the village Lohari. He has also annexed other documents to suggest that Sri Subba Lal was not a resident of village Lohari, but he was resident of Upraura, Sirsa, Allahabad, pages 44,45, 46,47, and 49.

8. The learned counsel for private respondent has produced the original documents with respect to Sri Subba Lal issued by the competent authority i.e. Zila Adhikari on 14.7.2003 wherein it is clearly certified that the respondent no.4 is a resident of Upraura (Lohari), Post Lohari, Sirsa, Allahabad. Even the certificate issued by Tehsildar on 9.2.99 shows that Sri Subba Lal is a resident of Upraura (Lohari) and even the principal of Lohari School Pratham has certified that his house is located close to Lohari prathem Vidyalaya. He has also produced the School register and transfer certificate to show that Sri Subba Lal was a resident of Upraura (Lohari), Sirsa, Allahabad. Thus, it is

clear that Sri Subba Lal was a resident of Upraura (Lohari). In any case, in the present case what we have to see as to whether the applicant can claim any of his right has been violated. ^{that is} whether the applicant or the respondent no.4 is a resident of Lohari Upraura or not is not within the domain of court as this has to be physically verified at local level either by the Tehsildar or District authorities or by the department where he has sought appointment.

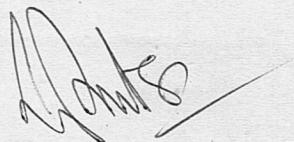
9. The respondents have clarified the position that Upraura is the main revenue village, while Dulwika pura and Lohari were smaller villages within the limit of Upraura. The main idea for opening the Extra Departmental Branch post office in Lohari ~~was~~ was for the purpose to have another post office away from the post office which was already situated in Upraura so that it could take care of the other parts where the mail was not being distributed from Upraura post office. As per the respondents' claim, there was already one post office situated in proper Upraura and the place which the applicant had offered on rental basis was situated just few meters away from the post office already in existence. Therefore, naturally that would not be ~~applicable~~ ^{applicable} to the authorities because that would defeat the object of opening another Extra Departmental Branch post office in Upraura revenue village, so naturally the place offered by the applicant was not found to be feasible, as such his candidature was not considered proper and since the next man who had secured highest marks was Sri Subba Lal and ~~he~~ he could afford the place for post office in Lohari itself, so he was offered appointment of EDBPM. Applicant's counsel has tried to no.4 strenuously argued that the respondent ~~was~~ not a resient of Lohari, but in the present scenario it does not really ^{what} the matter, whether he was resident of Lohari or not, but ^{could} ~~was~~ required is whether he ~~can~~ offer the place for opening the post office in Lohari. Since he did offer the place in Lohari itself, which was requirement of the department, therefore,

he was rightly appointed as EDBPM and we do not find any illegality in the said action of the respondents. Since the applicant has not been able to show us any document that the place which he has offered was in Lohari itself, it cannot be said that any of his rights have been violated and since there is no violation of any right, no relief can be given to the applicant as claimed by him.

10. In view of the above discussions, we find no merit in the O.A. The O.A. is accordingly dismissed with no order as to costs.



MEMBER (J)



MEMBER (A)

GIRISH/-