

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

Allahabad this the 11th day of September, 2009

Hon'ble Mr. A.K. Gaur, Member-J
Hon'ble Mr. D.C. Lakha, Member-A

Original Application No.460 of 2007
(Under Section 19 of the Administrative Tribunals Act, 1985)

Yashwant Kumar aged about 25 years, Son of Sri Ram Badan Maurya,
R/o Village and Post Youdhisthir Patti, District Azamgarh.

..... **Applicant**

By Advocate : Sri B.N. Singh

Versus

1. Union of India through its Secretary, Ministry of Communication (Postal) Dak Bhawan Sansad Marg, New Delhi.
2. The Senior Supdt. of Post Offices, Azamgarh Division, Azamgarh.
3. Assistant Supdt of Post Offices Mau.
4. Brijesh Kumar, Son of Vishwanath, R/o Village Sekhpur P.O. Maryadpur, District Mau.

..... **Respondents**

By Advocate : Sri S. Srivastava

ORDER

Delivered by Hon'ble Mr. D.C. Lakha, A.M. :

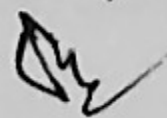
This O.A. has been preferred to seek the following relief(s) :

- (i) To issue order or direction in the nature of certiorari to quash the order dated 15.1.2007.
- (ii) To issue order or direction in the nature of certiorari to quash the appointment of respondent No.4 order dated 12.3.2007.
- (iii) To issue order or direction in the nature of Mandamus directing the respondent No.3 to consider the



application of applicant to appointment on the post of G.D.S.M.C.M.D. Nauthipur (Madhuban) Branch Post Office (Mau) and give the appointment."

2. In reply to the OA, the official respondents have filed their counter affidavit . No rejoinder has been filed inspite of adequate time being granted to the applicant.
3. Learned counsel for both the parties have been heard. They have submitted their written arguments as well. It is admitted that respondent No.3 issued notification vide his order dated 6.11.2006 calling for applications for regular appointment on the post of Gramin Dak Sewak Mail Carrier and Mail Deliverer (G.D.S.M. / M.C), Nauthipur (Madhuban) and Kanso Sub Post Office (Mau). The last date for submission of application was fixed as 5.12.2006.
4. On behalf of the applicant the learned counsel has submitted that the impugned order dated 15.01.2007 passed by respondent No.3 is illegal and arbitrary. He goes on to say that in response to notification dated 6.11.2006, the applicant submitted his application alongwith required document by Speed Post on 01.12.2006 i.e. five days before, the last date i.e. 5.12.2006. As per rule the Speed Post delivery must take place within 24 hours. It was sent from Ahraula Post Office which is at the distance of 40 K.M. from the Office of Assistant Superintendent of Post Offices, Mau. The Photocopy of the application and photocopy of the receipt of the Speed Post are submitted alongwith OA at Page-23 and 33 respectively. In order to further prove his timely submission of the application, he has also submitted the copy of the letter from Senior Superintendent of Post Office, Azamgarh regarding the information obtained under RTI Act (Annexure-14 page-58). In



this letter the information is given about the Speed Post letter No.1405, 1406, 1407, 1408 dated 01.12.2006 having been distributed on 4.12.2006 in the office of Assistant Superintendent of Post Offices, Mau.

5. In the OA, the applicant has made the submission for more than one time that he fulfills the required educational qualification as well. He has passed Prathma Examination which is equivalent to High School as per notification dated 14.5.2004 issued by Govt. of India. For more than one time, he has referred to various judgments of the Central Administrative Tribunal in support of his averments about the educational qualification.

6. In reply, it has ^{been} argued on behalf of the official respondents that the application for the post of Gramin Dak Sevak Mail Deliverer/Mail Carrier, Nauthipur (Madhuban), District Mau was received on 7.12.2006, whereas the last date of receipt of application was 5.12.2006. Therefore, the question of appointment of the applicant does not arise under the Departmental Rules. The application was rejected because it was not received by the respondent No.3 in time. About the educational qualification, learned counsel for the respondents stated that the qualification of Prathama passed by Hindi Sahitya Sammelan, Allahabad is not equivalent to matriculation (High School) as laid down by the Hon'ble High Court of Judicature at Allahabad in 2004, in Durgesh Kumar Shukla and Others Vs. State of U.P. & others and the case of Sarojini Pandey Vs. State of U.P. (Civil Misc. Writ Petition No.3142 of 2004), and the decision taken up by the department is clearly against the abovementioned judgments given by the Hon'ble

High Court, Allahabad. He is of the opinion that the Government order of 26.7.2001 and 14.5.2004 are neither entitlement made by the Central Government to recognize Prathma/Madhyama of Hindi Sahitya Sammelan, Allahabad, nor it has got recognition from University Grant Commission. In the absence of legislative enactment the same cannot be treated equivalent to Matriculation.

7. Learned counsel for the ^{applicant} ~~respondents~~ vehemently argued that the application of the applicant was received after the cut of date, hence it was not considered and it cannot be considered in response to the notification calling for application dated 6.11.2006.

8. In view of the statement and argument of both the parties above, we have perused the file and documents in detail. The impugned order dated 15.1.2007 passed by Assistant Superintendent of Post Offices, Mau rejecting the representation of the applicant dated 19.12.2006 clearly states that the application received from the applicant was for Kanso and not for Nauthipur. The application was received on 7.12.2006 whereas the stipulated date was 5.12.2006 as it was clearly mentioned in notification dated 6.11.2006. Since it was not received in time, it could not be considered for appointment. Hence the application dated 19.12.2006 is rejected and disposed of. It is clear from the order on the representation of the applicant that the representation has been rejected only on the ground of the application for appointment having been received late i.e. after the stipulated date in the notification. The lack of educational qualification or the ground of educational qualification is not the basis or one of the reasons for rejection of the application/representation by order dated

15.1.2007. Hence it need not be considered or may be ignored as irrelevant. We may also observe that the facts specifically stated in the counter reply has not at all been controverted by the applicant by filing rejoinder. In our considered opinion, the applicant has utterly failed to make out any case warranting interference. From the record and file, the applicant has not been able to ^{prove} ~~proof~~ that the application was received in the office of respondent No.3 in time i.e. on or before 5.12.2006. The information received under T.T.I. Act (photocopy on page 58 - Annexure-14) does show about the distribution of Speed Post No.1405, 1406, 1407 and 1408 dated 1.12.2006 on 4.12.2006 to the A.S.P.O. Mau. It is not clear from this document whether the application for the post of G.D.S.M. / M.C was contained in one of these papers sent by the Speed Post.

9. In the light of the above account, we find that there is no force in the statement and argument put forth on behalf of the applicant. Accordingly, the OA is dismissed. No order as to costs.


Member-A


Member-J

RKM/