

Central Administrative Tribunal, Lucknow Bench, Lucknow

ORIGINAL APPLICATION No. 99/2004

This the 13th day of July, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A.K. Mishra, Member-A

Shabbir Ahmad Siddiqui, Aged about 60 years, S/o Sri Bashir Ahmad, R/o Shekh Sarai Palia Old Sitapur, working BCR SPM Old town P.O. Sitapur.

.....Applicant

By Advocate: Sri R.S. Gupta.

Versus

1. Union of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P., Lucknow.
3. Superintendent of Post Offices, Sitapur.
4. Sri Pramod Kumar Mishra, SPM, H.S. Mills now Dy. Postmaster, Sitapur H.O.
5. Sri A.K. Srivastava, SPOs, Sitapur.

.....Respondents

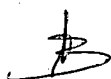
By Advocate: Sri S.P. Singh

ORDER

By Ms. Sadhna Srivastava, Member-J

The grievance, raised in this application, is that the applicant's junior Sri P.K. Mishra has been given a chance to work as Dy. Postmaster in H.S. Gr.I at Sitapur post office.

2. The facts are that due to retirement of one Sri H.K. Yagyadhari, arrangement had to be made on the post of Dy. Postmaster in Head Post Office, Sitapur. Vide order dated 22.2.2004, Sri P.K. Mishra working as Dy. Postmaster, Hargaon, Sugarmill, Sitapur was made to work as Dy. Postmaster, Sitapur Head Post office. It was clearly stipulated in the impugned order that it will not confer any right on him to claim regularization and that arrangement could be put to an end at any time without any notice. The respondents do not




dispute that the applicant was senior to Sri P.K. Mishra. However, for the reasons stated in the Written Statement, the respondents, in their discretion, chose to give chance to Sri P.K. Mishra in preference to Sri Shabbir Ahmad Siddiqui (applicant). Feeling aggrieved with the order of the respondents, the applicant has approached this Tribunal.

3. We have heard the learned counsel for the parties and have also perused the record.


4. We may mention at the outset that there are no statutory rules governing the officiating arrangement. However, there are guidelines laid down by the department with the object of eliminating arbitrariness. These guidelines also contemplate that strict adherence whenever not practicable from the administrative point of view, the competent authority may make such arrangement according to the administrative requirements. Thus, it is more or less administrative exercise of discretion. The respondents have given cogent reasons in paras. 2 and 12 of their Written Statement as to why Sri P.K. Mishra was preferred. There was a criminal case pending against Sri Shabbir Ahmad Siddiqui (applicant), therefore, they chose to give a chance to Sri P.K. Mishra. In such circumstances, we have only to consider whether the action of the respondents was malafide or tainted with arbitrariness. There is no rebuttal of the fact that a criminal case was pending against the applicant at the relevant time. During the course of arguments, learned counsel submits that a criminal case is still pending. If so, we cannot hold that the action of the respondents was arbitrary. It means that the respondents have duly applied their mind while passing the impugned order. They have also considered both the candidates i.e. the applicant and his junior namely Sri P.K. Mishra, but found that the applicant's posting on a higher post of responsibility, was not proper.

5. In the above background of facts, we do not consider it appropriate to substitute our own discretion and set-aside the impugned order. The Tribunal has not to interfere in



administrative action taken by the respondents except for special reasons and as such we do not find any merits in the O.A.

6. Resultantly, the O.A. is dismissed without any order as to costs.

 13/07/09
(Dr. A.K. Mishra)
Member-A


(Ms. Sadhna Srivastava)
Member-J

Girish/-