

Central Administrative Tribunal, Lucknow Bench, Lucknow.

Original Application No. 579/2005

This the 9th day of September 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A.K. Mishra, Member (A)

1. Vijay Pal Singh aged about 30 years son of Sri Indra Pal Singh R/o Village and Post Garhi Chunauti, District- Lucknow.
2. Yogendra Singh aged about 25 years son of Sri Jagdish Singh R/o Village and Post Garhi Chuauti District- Lucknow.

Applicant

By Advocate: None

Versus

1. Union of India through its Secretary, Ministry of Postal , New Delhi.
2. Chief Post Master General, U.P., Lucknow.
3. Senior Superintendent of Post Offices, Lucknow Division, Lucknow.
4. Assistant Superintendent of Post Offices (South), Lucknow.
5. Anupama Shukla w/o unknown d/o Ram Nidhi Shukla, r/o Village and Post Office- Benti, District- Lucknow Permanent address- Chowk, Lucknow.

Respondents

By Advocate: Sri S.P.Singh

ORDER (ORAL)

BY HON'BLE MS. SADHNA SRIVASTAVA, MEMEBR (J)

The applicants (two in number) seek a direction that the appointment of respondent No.5, namely Anupama Shukla on the post of EDBPM, Bhatgawan be quashed and either of the applicants be declared as selected for the post.

2. The facts are that on retirement of the incumbent from the post of EDBPM, Bhatgawan, an advertisement dated 18.7.2002 was issued by the respondents inviting applications from the eligible candidates. However, vide order dated 14.8.2003, as a

matter of policy decision, it was decided not to fill up any post till further instructions. Consequently, the process of selection was halted. Thereafter, in view of directions of this Tribunal in O.A. No. 71 of 2002 decided on 25.10.2004, Anupama Shukla, respondent No.5, had to be provided some appointment according to her eligibility and qualification. In order to comply ^{with} the said judgment, Anupama Shukla being suitable, she was provided appointment on the post of GDSBPM, Bhatgawan vide order dated 9.8.2005. She took-over the charge of the post on 2.9.2005.

3. Heard the counsel for the parties and perused the records.

4. It is settled law that the notification to fill up the post merely amounts to an offer to qualified candidates to apply for recruitment. However, if the selection process is halted as a result of some policy decision or it is decided by the authorities not to appoint a selected candidate on the post, it is not bad in law. In leading case, **Shankarsan Das Vs. Union of India, 1991, SCC (L&S) page 800** on the subject matter, it has been held that a candidate included in the merit list has no indefeasible right to appointment even if vacancy exists. There is only one rider. The authority must act in a bonafide manner.

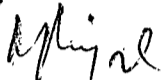
5. In the instant case, a policy decision was taken at the level of D.G., Posts, not to fill up the vacant post of GDS employee. Therefore, the selection process was halted. No malafides are alleged. Consequently, the applicant cannot claim that the selection process be continued or that they may deem to be selected candidates. Such a prayer is absolutely without any legal foundation.

6. As regards the appointment of respondent No.5, the respondents have alleged in their counter reply that she was found



suitable for appointment. She was appointed in compliance of order of the Tribunal as mentioned above. The applicants were not in the field. We are of the considered opinion that the applicants have no legal right to seek quashing of appointment of respondent No.5 i.e. Anupama Shukla.

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


Dr. A.K.Mishra)
Member (A)


(Sadhna Srivastava)
Member (J)

HLS/-