

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 215/2006

This the 26th day of November, 2009

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

Smt. Sangeeta Pandey aged about 29 years wife of Sri Ravindra Kumar resident of Village and Post Bhavapur, District- Sultanpur.

Applicant

By Advocate: Sri R.S. Gupta

Versus

1. Union of India through the Secretary, Posts and Telegraphs Department, Govt. of India, New Delhi.
2. Superintendent of Post Offices, District Sultanpur,
3. Surya Mani aged about 33 years son of Sri Ram Roop Ojha, resident of Village and Post- Bhavapur, District- Sultanpur.

Respondents

By Advocate: Sri S.P. Singh
Sri R.C. Singh

ORDER

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

The applicant is challenging the appointment on the post of Branch Post Master, Bhawapur District- Sultanpur which was initially provided to respondent No.4 namely Lajee but subsequently respondent No.3 namely Surya Mani has been appointed by order dated 4.4.2006 as a result of judicial verdicts in O.A.No. 435/98 decided on 29.9.2004, Writ Petition No. 1703/2004 before Lucknow Bench of High Court decided on 5.5.2005 and decision of Tribunal after remand from High Court on 9.9.2005 in O.A.No. 435/98.

2. The facts are that an advertisement was made in the year 1998 inviting applications for the post of E.D. Branch Post Master (EDBPM) Village Bhawapur District- Sultanpur. Five persons including Sangeeta Pandey (applicant), Suryamani



(Respondent No.3) and Laljee (respondent No.4) applied for the post and participated in the selection. By order dated 16.10.98, Laljee (Respondent No. 4) was appointed on the post in preference to Sangeeta Pandey (Applicant) and Suryamani (Respondent No.3). It may be mentioned at this stage that Sangeeta Pandey (applicant) and Laljee Pandey (Respondent No. 4) were members of same family as alleged. The respondent No. 3 challenged the selection of respondent No. 4 by means of O.A.No. 435/98. The applicant i.e. Sangeeta Pandey initially challenged the appointment of Suryamani as well as of Laljee Pandey, but through an amendment application, she deleted the challenge to the appointment order dated 16.10.98 made in favour of Laljee Pandey as alleged in para 12 of Counter Reply of respondent No.3 i.e. Suryamani. It is also alleged in para 31 of Counter Affidavit of Suryamani that Sangeeta Pandey also submitted a declaration saying that she did not want to serve as EDBPM.

3. The above said O.A. was allowed on 29.9.2004 setting aside the appointment of respondent No. 4 with a direction to consider respondent No. 3 for appointment to the post. Sri Laljee Pandey, respondent No.4 filed Writ Petition No.1703/2004 which was disposed of by the High Court, Lucknow Bench on 5.5.2005 remanding the matter to the Tribunal to decide the O.A. after giving an opportunity of hearing to Laljee Pandey (Respondent No.4). Thereafter, the O.A. was decided on 9.9.2005 setting aside the appointment of respondent No.3 with a direction to accommodate respondent No.3 if possible on some alternative post. Pursuant to the judgment, respondent No. 3 i.e. Suryamani has been appointed vide order dated 4.4.2006. After the appointment of respondent No.3, Suryamani, the instant O.A. has been filed by the



applicant on 27.4.2006 challenging the appointment of Suryamani on the ground that she had secured higher marks in matriculation examination than Suryamani.

4. Heard learned counsel for parties and perused the record.

5. The above facts clearly indicate that the applicant was not serious to claim the post till Laljee Pandey, respondent No. 4 was holding the same. It is only after the whole round of litigation in this Tribunal and the High Court that the applicant has awakened from her sleep to knock at the door of Tribunal to stake her claim. The verdict of Tribunal and High Court has gone against Laljee Pandey. His services have been terminated from the post of EDBPM. Suryamani, respondent No. 3 has been appointed on the said post. It is only thereafter, that the applicant is pressing her claim on the ground that she had obtained higher marks in the matriculation examination and therefore, the appointment order of Suryamani, respondent No.3 dated 6.4.2006 should be quashed. It is obvious that the pleas raised now were available to the applicant soon after the selection process was over in early October, 1998. However, she chose to remain silent all these years.


6. The claim has been vehemently opposed by the respondents on the ground of delay and laches. It has been contended before us that if the applicant was not aggrieved with the appointment of Laljee Pandey, how can she be aggrieved with the appointment of Suryamani. It was also contended before us that once Laljee Pandey finally lost the legal battle, he has made her to file this application. Whatever it may be, we are of the opinion that once Suryamani has been held to be entitled to the appointment on the post in preference to Laljee Pandey and he has been provided an appointment by



the competent authority in compliance of the order of Tribunal, third party can not be allowed to reopen the matter again at this belated stage.

7. The Hon'ble Apex Court in the case of Union of India and others Vs. Bikash Kumar 2006 Supreme Court Cases (L&S) 1937 has laid down that in certain circumstances lower marks in matriculation examination may not be the basis for reviewing the selection process and cancel the appointment of respondent. We are of the opinion that this is a fit case for invoking the above said principle of law. Consequently, we do not consider it appropriate to interfere with the appointment of respondent No. 3 on the post.

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


(Dr. A.K. Mishra) 26/11/09
Member (A)


(Ms. Sadhna Srivastava)
Member (J)

HLS/-