

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 233 of 2011

Reserved on 23.2.2015

Pronounced on 05/3/15

**Hon'ble Sri Navneet Kumar , Member (J)**

**Hon'ble Ms. Jayati Chandra, Member (A)**

Laxmi Kant Tripathi aged about 35 years, Son of Sri Krishna Kumar Tripathi, Resident of Village and Post Sandila, District Hardoi.

**Applicant**

**By Advocate: Sri G. S. Maurya for Sri A. Narain.**

Versus

1. Union of India through Secretary, Post and Telegraph, New Delhi.
2. State of U.P. through Principal Secretary Home Civil Secretariat, Lucknow.
3. Post Master General, District Bareilly.
4. Post Superintendent, District Hardoi.
5. Mr. Kulveer Singh, son of Sri Ashok Pal Singh, Resident of Village and Post Bahar, District Hardoi.
6. Mr. Ratibhan Singh, Post Master, Bahar, District Hardoi.

**Respondents**

**By Advocate: Sri S. K. Awasthi for Respondent Nos. 1, 3 & 4**  
**Sri Pnkaj Awasthi for Sri A. K. Chaturvedi for**  
**Respondent No. 2**  
**Sri S. P. Singh for Respondent No. 5.**

### **ORDER**

#### **BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)**

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

1. Issue a order or direction setting aside the appointment of respondent No. 5 as shown in Annexure Nos. 3 and 4 in the writ petition.
2. Issue a order or direction to the respondent No. 3 to appoint the petitioner on the post of Branch Post Master at post office Sandila.
3. Issue a order or direction to the respondent nos. 1 and 2 to initiate CBI enquiry against the respondent Nos. 4 and 6 in relation to the appointments made since

1.1.2009 to till today on the post of Branch Post Master at District Hardoi.

4. Issue any other order or direction, which this Hon'ble Tribunal may deem just fit and proper under the circumstances of the case to award the cost of this original application.

2. The brief facts of the case as per the applicant are that the respondents issued an advertisement and the applicant applied for the post of Branch Post Master and the respondents appointed respondent No. 5 without following the norms and thereafter on 26.10.2010, certain information were sought for by the applicant under RTI and information so sought for was given to the applicant. The applicant challenges the appointment of respondent No. 5 on the ground that the same has been given without following the procedure prescribed for the post of Branch Post Master and it is also indicated by the applicant that the applicant has secured higher marks than the last selected candidate as such the same is illegal and interference is required by this Tribunal.

3. Notices were issued to all the respondents and no one has put in appearance on behalf of respondent No. 6 whereas, Sri S.K. Awasthi has appeared on behalf of respondent Nos. 1, 3 and 4, Sri Pankaj Awasthi holding brief for Sri A. K. Chaturvedi, for respondent No. 2 whereas, Sri S. P. Singh for respondent No. 5.

4. The respondents have filed their counter reply and through counter reply, it is indicated by the respondents that the post of Branch Post Master Sandila was laying vacant since 2.2.2003 due to retirement of Sri Ram Kumar Tripathi, and after due process, the respondent No.5 was appointed vide memorandum dated 4.8.2010 and the respondent No. 5 has also taken charge on 7.8.2010. Apart from this, it is also indicated by the

respondents that the person who was appointed secured higher marks, as such, he was fulfill all the requisite qualifications as such, he was appointed. The learned counsel for the official respondents as well as private respondents has categorically indicated that there is no illegality in appointing the respondent No. 5. As such no interference is required by this Tribunal and the O.A. is liable to be dismissed out rightly with heavy costs.

5. On behalf of the applicant rejoinder is filed and through rejoinder mostly the averments made in the O.A. are reiterated and the contents of the counter reply are denied.

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

7. The applicant applied for appointment for the post of Branch Post Master, Sandila in terms of an advertisement duly issued by respondents vide their notice. The said notice was issued by the office of the Superintendent of Post Offices, Hardoi Mandal, Hardoi. In pursuance here of, the respondent No. 5 as well as the applicant both applied and after following due process of selection, the respondent No. 5 was appointed. During the course of arguments, the learned counsel for the respondents has also drawn attention towards relief clause of the O.A and has indicated that the applicant has prayed for quashing of the appointment of respondent No. 5 as shown in Annexure No. 3 and 4 to the O.A. whereas, Annexure 3 and 4 are annexed along with the O.A. are the application form of the applicant for the post of GDS BPM and the Annexure 4 is the information sought under RTI. Though he has challenged the appointment of respondent No. 5, but has not annexed the same along with the O.A.. It is also indicated by the respondents that respondent No. 5 was given appointment by the respondents

on 4.8.2010 and in pursuance thereof, he has also submitted his

charge report on 7.8.2010 and since then, the respondent No. 5 is working on the said post. Not only this, it is also categorically indicated by the respondents that wide publicity is done for the vacant post of BPM. Since the applicant along with the respondent No. 5 applied for the said post and after due process of selection, the appointment of respondent No. 5 was selected.

8. In the case of **Mehmood Alam Tariq and Others vs. State of Rajasthan and Others reported in 1988 3 SCC 241**, the Hon'ble Apex Court has been pleased to observe that **"in the selection process interference is normally not called for in mode of conducting a selection by the authorities."**

9. The Hon'ble Apex Court in the case of **C. P. Kalra Vs. Air India through Managing Directing Bombay and Others reported in 1994 Supp (1) SC 454** has been pleased enough to observe that **"process of selection cannot be interfered with on the basis of vague allegations of an unsuccessful candidate."**

10. The Hon'ble Apex Court also observed that the Court cannot assume the role of selection committee and evaluate the fitness of the candidate for a particular post.

11. It is also to be pointed out that the process of selection begins with the issuance of advertisement and ends with the filling up of notified vacancies. The process consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment. Normally the task of selection is assigned to a selection committee and the function of such a committee is to select those amongst the eligible candidates on the basis of merit adjudged by adopting fairly laid down criteria and finally preparing a panel or select list

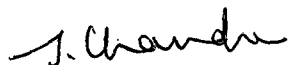
of the successful or selected candidates. The persons having

better grade were including in the select list. In the case of **K. H. Siraj Vs. High Court of Kerala and Others** reported in (2006) **6 SCC 395**, the Hon'ble Apex Court has been pleased to observe that **"apart from the fact that the appellant petitioners who are not eligible candidates are not entitled to contest the validity of the select list on this ground."** In the Constitution Bench decision in the case of **Shankarsan Dash Vs. Union of India** reported in (1991) **3 SCC 47** the Hon'ble Apex Court has been pleased to observe that **"though a candidate has passed an examination or whose name appears in the list does not have an indefeasible right to be appointed, yet appointment cannot be denied arbitrarily nor can the selection test be cancelled without giving proper justification."**

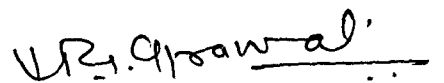
12. The entire selection process got completed and the applicant was not found suitable by the committee, as such the submissions made by the learned counsel for the applicant cannot be accepted

13. On the basis of pleadings, we are not inclined to interfere in the present original application.

14. Accordingly, O.A. is dismissed. There is no order as to costs.



(Ms. Jayati Chandra)  
Member (A)

  
(Navneet Kumar)  
Member (J)

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