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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. No. 294/91

Lucknow this 6th day of July, 1994.

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K.SETH, ADMN. MEMBER.

Vijai Shankar Singh, son of Shri Ishwardin Varma, aged about 30 yrs, resodent of E.D.B.P. M. Kaiserganj, Unnao, resident of 361 A.B. Nagar, Unnao.

Applicant

By Advocate-None.

versus

1. Union of India throgh Secretary, Postal Department, New Delhi.

2. Supdt. of Post offices, (M) Division, Kanpur.

Respondents.

By Advocate-None.

O R D E R

(Hon. Mr. Justice B.C. Saksena, V.C.)

Case called out. The learned counsel for the applicant did not appear, nor there was any response on behalf of the applicant. The respondents were represented through late V.K.Chaudhary, Advocate. Counter Affidavit on behalf of the respondents has been filed. We have gone through the O.A. and the Counter affidavit. No Rejoinder Affidavit has been filed by the applicant.

2. The only relief prayed for in the O.A. is that the respondent No. 2 be directed to permit the applicant to appear in the Departmental Postman Cadre Examination 1991. An interim order was passed directing the respondetns to permit the applicant

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to appear in the said examination. Subsequently, by an order passed on 11.5.92 it was provided that if the result of the said examination is declared during the pendency of the O.A., it shall be subject to the decision of the O.A.

3. In the Counter affidavit it has been stated that the applicant was permitted to appear at the Departmental Postman Cadre Examination held in 1991 and it has been pleaded in paragraph 15 of the Counter affidavit that by reason of the said fact O.A. may be rejected. It has further been pleaded in the Counter Affidavit that the applicant ~~is~~ ^{was} no more continuing as E.D.A. in Postal Department, hence he was not eligible to appear at the examination/in deference to the interim order he was permitted to appear. The further case of the respondents, in the Counter is that the applicant was temporarily engaged as Substitute on the risk and responsibility of another retired employee. On availability of regular incumbent the temporary engagement came to an end.

4. Since no Rejoinder Affidavit has been filed, and the averments made in the Counter Affidavit ^{not} have/been controverted the O.A. has necessarily to be decided on the basis of the uncontroverted, averments in the Counter affidavit.

5. Though the respondents in deference to the Interim order had permitted to appear in the Departmental Postman Cadre Examination 1991, on the basis of the averments in the Counter affidavit we are satisfied that the applicant had no right and was not eligible to appear at the said examination.

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The O.A. is accordingly dismissed. No order as to costs.

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ADMN. MEMBER

B. S. D. A. K. S. E. N. O.

VICE CHAIRMAN.

Lucknow: Dated: 6.7.94