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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW.

O.A. No. 900/91

H.N. Tewari.....Applicant

Versus

Union of India and others..Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K.Obayya, A.M.

(By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

Present Sri S.C.Tripathi for the respondents.

As the pleadings are complete the case is
being disposed of finally.

2. One Sri Prem Na^grain Misra was working as Extra Departmental Branch Post Master, Maheshganj Pratapgarh. He was promoted as Departmental postman and was relieved on 13.10.90 as the post had fallen vacant the absorption requisition was sent to the Employment Exchange which forwarded 3 names on 23.11.90. with the applicant. One Rak^{sh}Kumar Shukla and one Alok Kumar Shukla also applied and submitted their certificate and requisite documents. On verification of the application and documents of the candidates it was discovered that the applicant secured 37.6% marks in High School and the Tahsildar certified his income for Rs. 900/- per month and accordingly it was said that the source of income was not mentioned and accordingly it was found that he was not suitable. Alok Chandra Tripathi secured 54.2% marks in High School but his income is Rs. 400/- per month but the source of income was not certified by the Tahsildar and he too was not suitable. Similarly the third candidate was not local and as such he was not entitled. As such applications were invited by taking applications by various candidates. The applicant applied in response to the same. Thereafter all these applications were scrutinised and it was found that the applicant was most suitable candidate consequently he was given appointment vide letter dated 18.6.91 on the proforma appointment but it appears that some complaints of the applicant that he has got no house. Anyhow it was brought to the notice

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of some one that the applicant has got no house and has taken the house of one Bhulai but was not available and that he has purchased 8 Biswa of land but mutation too was not effected in his name and the said Alok Chandra Tripathi who secured 54.2% marks in High School and has sufficient means of livelihood and has a Pakka house for keeping Post Office was appointed vide letter dated 13.8.91 and the applicant's appointment was terminated. Against this order he has approached this Tribunal. Some documents which has been placed by the respondents on record it appears that application of the applicant also certified by the Tahsildar to be correct in which he stated that he having an income of Rs. 500/- per month from agricultural and Rs. 400/- per month from hotel which ~~is~~ is running. He has also filed a Khatuni which indicates that his name was mutated in 18.6.81 by the Tahsildar i.e. before the impugned order was passed regarding the respondents. A complaint was made as early as on 19.12.90 by the Tahsildar that he does not own any house or cultivation and as a matter of fact he stayed with his father up till now even in the counter affidavit also it was not disclosed by the respondents what is his source of income except Rs. 400/- and yet he was appointed once the decision after taking into consideration the suitability of the candidates that the appointment could have been cancelled only after giving an opportunity of hearing on the ground that the particulars given by him are not correct or even denied was not adopted. Nothing like that what has been found in this case and according we have recalled ~~the~~ earlier, the applicant was selected and somebody was interested but the respondents gave an appointment with no ground for cancelling the appointment and accordingly the order of cancellation dated 13.8.91 and the appointment of the respondents is quashed. The applicant shall be deemed to be continuing to hold the said office of E.D.M.P. and continue to hold the same till his appointment does not go to an end in accordance with law.

No order as to the cost.

Surjpal
A.M.

lu
V.C.