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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW BENCH

T.A. No. 1128/87  
(W.P. No. 971/83)

Prahlad Chandra

Applicant.

versus

Union of India & Ors.

Respondents.

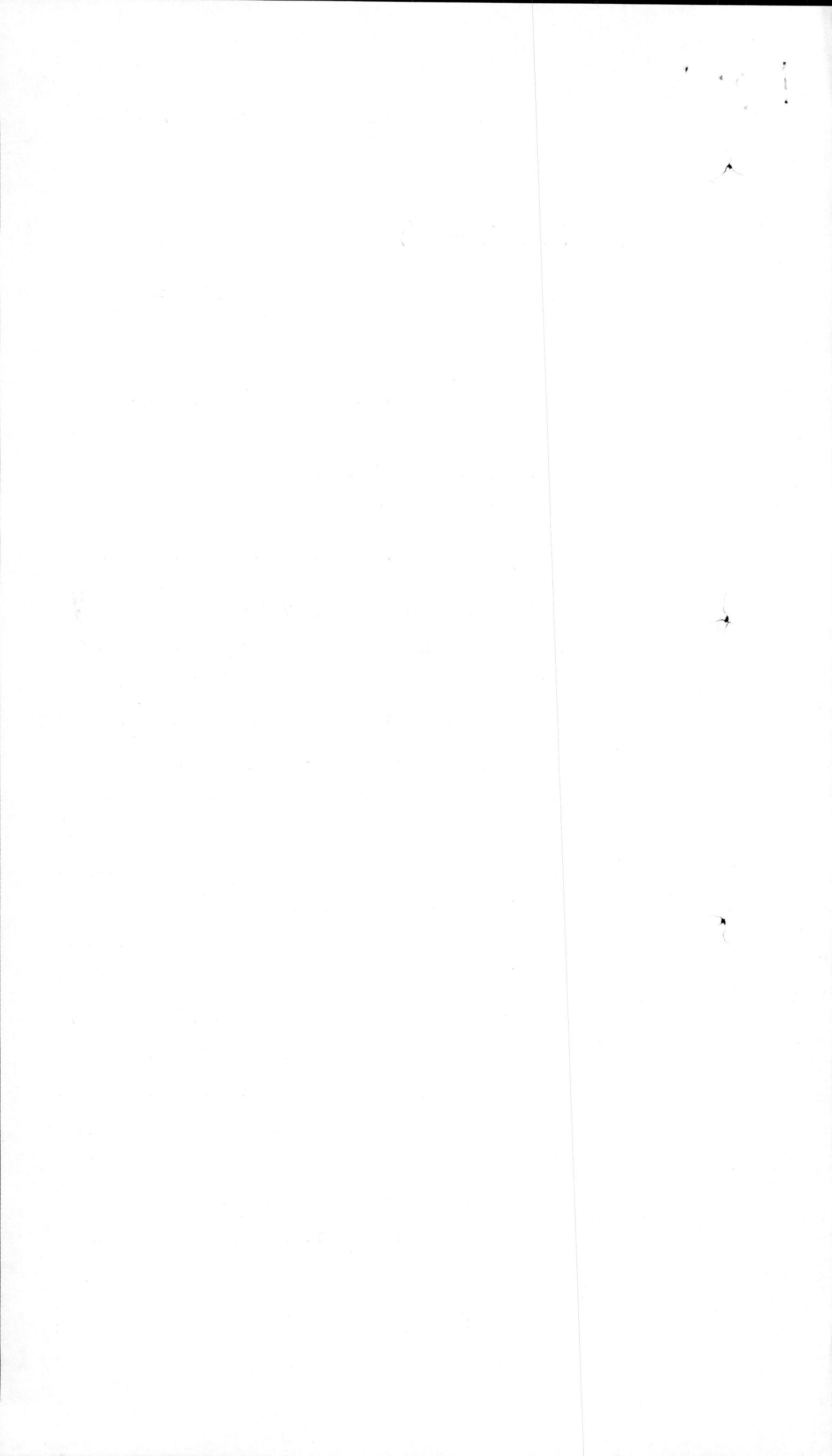
Hon. Mr. D.K. Agrawal, J.M.

Hon. Mr. K. Obayya, A.M.

(Hon. Mr. D.K. Agrawal)

Writ petition No. 971/83 filed before the High Court, Lucknow Bench of transfer to this Tribunal under section 29 of the Administrative Tribunal Act, 1985 was registered as T.A.No. 1128/87 ~~xxxxxx~~ as indicated above.

2. The writ petition is directed against the selection of respondent No. 4 as Extra Departmental Delivery Agent and non selection of the petitioner therein. The facts are that the petitioner was made to work as Extra Departmental Delivery Agent at the branch post office Balbharia Pargana and Tahsil and District Gonda with effect from 26.7.82. However, on selection being made and after consideration of the petitioner as well as respondent No. 4, the Selection Committee selected respondent No. 4 for the post of Extra Departmental Delivery Agent and he was given charge on the post of Extra Departmental Delivery Agent with effect from 27.1.83. The petitioner, feeling



aggrieved filed above writ petition challenging the selection of respondent No. 4. <sup>A</sup> ~~The~~ <sup>the</sup> ~~of~~ prayer has also been made that the petitioner be treated to have been in service as Extra Departmental Delivery Agent.

3. We have heard the learned counsel for the parties and perused the record. The settled position of law is that the Tribunal is not to sit in appeal or substitute itself for the selection committee i.e. the Tribunal has not to judge the relative merits of the candidate and give its own findings. The interference in selection is limited on grounds of malafides or arbitrariness. Therefore, we find it difficult to hold that the selection of respondent No. 4 was not a proper selection. The only point that has been canvassed convincingly before us is that the petitioner was a backward class person. If so, he was entitled to preferential treatment in accordance with the instructions of P&T Department from time to time. In view of this we consider that it would meet the ends of justice if the petitioner is given due weightage for belonging to backward class in the selection hereinafter held ~~which~~ <sup>wherein</sup> he applies for.

4. There is also a controversy as to whether the petitioner was a substitute or a regularly appointed person. The burden lies on the petitioner to prove that he was appointed as Extra Departmental Delivery Agent. The case of the respondent is that the petitioner was given charge on 26.7.82 only as a substitute. We regret to say that no document has