

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 165/2007.

This, the 1<sup>st</sup> day of May, 2007.

Hon'ble Mr. A. K. Singh, Member (A)

Hon'ble Mr. M. Kanthaiah, Member (J)

Data Ram aged about 50 years S/o Sri Kunj Behari Shukla  
GDSMPO Achethi (Kheri) R/o Mohalla Basin Tola Ward  
Dhaurahra District Kheri.

..... Applicant.

By Advocate Shri R.S. Gupta.

Versus

1. Union of India through the Secretary Department of Post Dak Bhawan, New Delhi.
2. Superintendent of Post Offices Kheri.
3. S.D.I. (Postal) Kheri East Sub Division Kheri.
4. Sri Ved Prakash Group D Kheri H O (Earlier EDMP Kukra Town P.O.) Kheri.

..... Respondents.

By Advocate Shri Tushar Verma.

Order (Oral)

By Hon'ble Mr. A. K. Singh, Member (A)

The O.A. bearing No. 165/2007 has been filed by the applicant Data Ram (of the address given in the O.A.) against order No. A 27/ Amethi /2005-06 dated 27.6.2005 passed by S.D.I. (D) Kheri ( East) Sub Division Kheri debarring the applicant from appearing in the

Postman's Exam for one year and ordering correction of his date of birth from 5.1.1956 to 5.1.1952. The applicant's submits that his date of birth is 5.1.1956. He was appointed as EDMP Amethi EDBO, District Kheri, on 22.8.1970. That his another colleague, Sri Ved Prakash Trivedi EDMP who was born on 15.1.1954 was also appointed as EDMP Kukra Town, on 16.4.1971.

2. The applicant submits that although he was senior to Shri Ved Prakash Trivedi who is respondent No. 4 in the O.A., he was ignored for selection to Group D cadre without any rhymes or reasons. He however made a representation to the D.G., Posts, New Delhi through Bhartiya Postal Employees Federation with a request to quash the selection of his Junior Shri Ved Prakash Trivedi i.e. respondent No. 4 on extraneous, considerations, as the same was neither based on merit nor seniority. The respondent No. 4 Shri U.S. Sharma, Superintendent of Post Offices, Kheri managed got a charge sheet issued to him Under Section 10 of GDS(Conduct & Employment) Rules 2001. The Charge Sheet in question, though issued by S.D.I. East Kheri wa at the behest of respondent No. 4 when the disciplinary inquiry commenced. Shri R.D. Tewari, a retired SPO


was nominated by him as his as Defence Assistant. But to his utter surprise his defence assistant was never informed about the dates of inquiry. However, the inquiry was conducted without the assistance of defence assistant and the inquiry proceedings were conducted behind his back, in gross violation of principles of natural justice. On conclusion of the proceedings, two penalties were imposed on him. According to first penalty he was debarred from appearing in Postman's Examination for one year and as per second, an order of correction of his date of birth from 5.1.1956 to 5.1.1952 was also passed. The applicant's submits that the second penalty imposed is not at all covered under Rule 9 of GDS (Conduct & Employment rules 2001) and therefore, not maintainable in law.

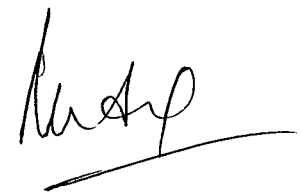
3. The counsel for respondents Shri Tushar Verma opposes the O.A. on behalf of respondent No. 1 to 3. He submits that the appeal of the applicant is still pending before the Appellate Authority namely Superintendent of Post Offices, Kheri, hence the O.A. in question has been filed without exhausting the departmental remedies, available to the applicant. The O.A. in question, is accordingly not maintainable before this Tribunal and hence deserves to be dismissed.

4. We have carefully considered the submissions made by learned counsels on both sides. We find that since the appeal of the applicant is still pending before the appellate authority, it will be better for the applicant to agitate these <sup>points</sup> before that authority for necessary relief.

The <sup>points</sup> relating to violation of principles of natural justice in the conduct of disciplinary proceedings can also be taken up before that authority. He could also raise the points relating to maintainability or otherwise of the second penalty namely correction of his date of birth from 5.1.1956 to 5.1.1962. The appellate authority will consider the submissions made by the applicant and accordingly decide the appeal filed by the applicant by passing a speaking order, within a period of two months from the date of receipt of certified copy of this order. In case the applicant is aggrieved by the same, he would be at liberty to come up before this Tribunal again for redressal of his grievances.

5. The Original Application 165 of 2007 is disposed of in above manner. No order as to costs.

  
Member (J) 1-5-07

  
Member(A)