

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 23.3.94.

OA 702/93

MAHENDRA SINGH ...APPLICANT.

v/s.

UNION OF INDIA & ORS. ...RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

HON'BLE MR. C.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI K.L. THAWANI.

For the Respondent No.4 ... SHRI SHIV SINGH.

For Respondents No.1 to 3 ... SHRI U.D. SHARMA.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

This is an application u/s 19 of the Administrative Tribunals Act, 1985, by the applicant Mahendra Singh, praying that the impugned order Annexure A-1, by which respondent No.4 Ashok Kumar was selected for appointment to the post of Extra Departmental Branch Post Master, Lamba, be quashed. The applicant has also prayed for a direction to the respondents to appoint him on regular basis.

2. We have heard the learned counsel for the parties and the learned counsel for respondent No.4. We have carefully perused the records.

3. The applicant's case is that he was appointed as Extra Departmental Branch Post Master w.e.f. 2.9.93 on provisional basis against a vacancy caused by the removal of one Shri Deepak Kumar, the then Extra Departmental Branch Post Master at Lamba. The applicant was appointed to the post of EDBPM vide Annexure A-3 dated 7.9.93 on provisional basis on the understanding that the provisional appointment will be terminated as and when regular appointment is made and it was also stipulated in the appointment order that the applicant shall have no claim for appointment as the right to terminate his

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provisional appointment was reserved by the appointing authority. However, a requisition was sent to the District Employment Exchange on 1.7.93 for sponsoring the names of suitable candidates for appointment to the said post. The Employment Exchange sent a list of 9 candidates including the applicant for being considered for appointment. Out of 9 persons 7 of them had applied for appointment alongwith the requisite particulars. The applicant was also one of them. The cases of all the 7 candidates had been considered by the appointing authority and Ashok Kumar (Respondent No.4) having been found to be more meritorious than others was selected for the said post. It is stated on behalf of the respondents that the respondent No.4 had acquired higher percentage of marks than the applicant in the Secondary School Examination. The challenge to the appointment of respondent No.4 is based on two folds grounds. Firstly, it is contended on behalf of the applicant that the appointment of respondent No.4 was made in violation of Articles 14 and 16 of the Constitution. There is no specific averment made in the petition that there was any arbitrariness in the matter of selection. It has further not been specifically averred that there was discrimination made between the applicant the candidate who was selected for appointment. Secondly, the contention of the learned counsel for the applicant is that since the applicant possessed more immoveable property and had better means of livelihood, he should have been preferred to respondent No.4 in the matter of selection. It is urged on behalf of the applicant that he possesses more space to offer for running the Post Office in the village and as such he was entitled to preferential treatment in the matter of selection. It transpires from the documents produced on behalf of respondents No.1 to 3 that the respondent No.4 is a resident of

village Lamba and he owns a house as well as a small shop in the village. In our opinion, the respondent No.4 has adequate means of livelihood as brought out by the documents on record and that he fulfils the requisite eligibility criteria.

4. The applicant having failed to make out a case in his favour, this application is hereby dismissed at the admission stage, with no order as to costs.

(G.P. SHARMA)
MEMBER (A)

ChkYR
(GOFAL KRISHNA)
MEMBER (J)