

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.345/97

Date of order: 10/8/2009

Pratap Singh, S/o Sh.Bhanwar Singh, R/o Village Nalu
Via Harmada, Kishangarh, Distt.Ajmer.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Deptt.of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Sr.Superintendent of Post Offices, Ajmer Divn, Ajmer.
4. Sh.Madan Lal, S/o Sh.Ram Chandra, R/o Village Nalu, Harmada, Kishangarh, Ajmer.

...Respondents.

Mr.P.P.Mathur : Counsel for applicant

Mr.D.K.Swamy, Proxy of Mr.Bhanwar Bagri for respondents 1-3

Mr.K.L.Thawani - Counsel for respondent No.4

CORAM:

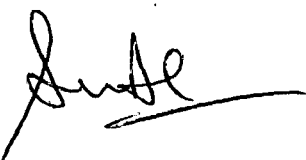
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the selection of respondent No.4, Sh.Madan Lal and direct the official respondents to appoint the applicant in place of respondent No.4.

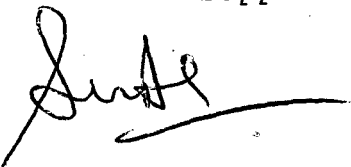
2. Facts of the case as stated by the applicant are that in response to the notification issued to fill-up the post of EDEPM, Nalu, Harmada, Distt.Ajmer, the applicant and others were submitted their application forms to the respondents. Thereafter merit list was prepared and applicant's name was placed at Sl.No.1 in order of merit but



the respondents gave appointment to respondent No.4 arbitrarily and malafidely. It is stated that the applicant sent legal notice on 17.7.97 to the respondents but with no result. It is stated that the selection of respondent No.4 was arbitrary, illegal and in violation of Articles 14 & 16 of the Constitution and the respondents ignored the merit in their letter dated 19.1.97 hence the appointment of respondent No.4 is illegal and unconstitutional and the same is liable to be declared as illegal. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated that the vacancy was notified to the Employment Exchange, Ajmer, who sponsored 9 candidates whom were asked to submit applications but only 4 candidates submitted the applications. Out of 4 candidates, respondent No.4 fulfills the requisite conditions was selected. It is stated that respondent No.4 being an ST candidate was given preference as there was no representation of ST candidate in Ajmer Division. It is stated that in Ajmer Division out of 112 posts of EDBPM/ESPM the representation of ST candidate was nil, therefore, in view of the Govt policy, preference was given for appointment to ST candidate, i.e. respondent No.4, Sh.Madan Lal. It is also stated that though the applicant was in merit but to fulfill shortfall of ST candidate, respondent No.4 was selected and appointed who was otherwise eligible for the post. It is denied that selection of respondent No.4 was arbitrary, illegal and in violation of Articles 14 & 16 of the Constitution, thus it is stated that the applicant has no case.

4. Reply was also filed on behalf of respondent No.4, supporting the action of the official respondents, which is



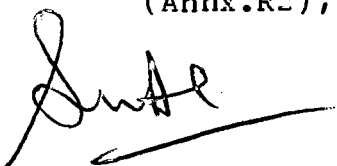
on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The learned counsel for the applicant has argued that the applicant was most meritorious but the official respondents ignoring his merit appointed respondent No.4, an ST candidate, arbitrarily against the rules, therefore, the appointment of respondent No.4 is illegal and unconstitutional. On the other hand the learned counsel for the official respondents has objected the plea and submitted that to fillup the back-log of ST candidate, respondent No.4 was given preference and he was selected and appointed, which is perfectly legal and as per rules.

7. We have given anxious consideration to the rival contention of both the parties and also perused the whole record.

8. Undisputedly, the applicant was meritorious and has secured 238 marks in Secondary School Examination and admittedly respondent No.4 secured less mark than the applicant but being an ST candidate and to fill-up the back-log of ST candidate, preference was given to respondent No.4 who was otherwise fulfilling the eligibility criteria. Although Recruitment Rules for ED Agent do not provide any preference to SC/ST candidates for appointment but in the absence of statutory rules, executive instructions issued by the competent authority will have full play and the official respondents relying upon those instructions, selected and appointed respondent No.4 as the representation of ST community in Ajmer Division was inadequate. A combined reading of circular dated 8.10.80 (Annx.R1) and 13.3.84 (Annx.R2), make it abundantly clear that if representation

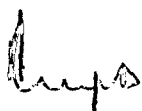


of SC/ST candidate is inadequate in the Division, preference must be given to SC/ST candidates to fill-up the back-log.

9. On a perusal of these circulars, it is abundantly clear that while making selection on the posts of EDBPM/EDSPM, SC/ST representation in ED appointment in general is inadequate, SC/ST may be given preference. This is however, subject to the condition that they fully satisfy all criteria for such appointment.

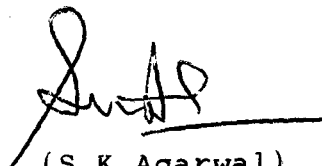
10. In the instant case, it has been explained in the reply filed by the official respondents that representation of ST candidate was inadequate, rather nil on the post of EDBPM/EDSPM, therefore, preference given to ST candidate, in our considered opinion is in accordance with the rules/executive instructions issued by the department from time to time and we do not find any basis to interfere in the selection and appointment of respondent No.4, Sh.Madan Lal for the post of EDBPM Nalu, Harmada, Distt.Ajmer. We, therefore, find any merit in this O.A and the same is liable to be dismissed.

11. We, therefore, dismiss this O.A having no ~~merits~~ merits with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).