

Central Administrative Tribunal
Principal Bench
OA 70/2002
New Delhi, this the 18th day of February, 2003

Hon'ble Shri Shanker Raju, M(J)

Yogender Kumar
S/o Shri Dilawar Singh
R/o C-72, West Jyoti Nagar
Delhi.

(By Shri S.K.Gupta, Advocate)

... Applicant

Versus

1. Union of India
Through Secretary
Department of Post
Dak Tar Bhawan
New Delhi.
2. Chief Post Master General
Delhi Circle
New Delhi-110001.
3. Sr. Superintendent of Post Offices
East Delhi Division
Delhi-110051.

(By Ms. Promila Safaya, Advocate)

... Respondents

ORDER (Oral)

By Shri Shanker Raju, M(J)

Applicant impugns verbal order of termination dt. 27.9.1999 and also an order passed on 29.11.2001 by the respondents in appeal rejecting his request for regularisation against regular post. Applicant has sought quashment of these orders with directions to consider him for regularisation and to put his name in the waiting list as per departmental instructions dated 18.5.1979.

2. Briefly stated applicant who was appointed as a substitute of one Shri Ashwani Chauhan provisionally on 23.11.1994 as Extra Departmental Packer continued to work till 13.9.1999 when Shri Ashwani Chauhan arrived back. Shri Chauhan further promoted as Group 'D' post on 4.10.1999. Against termination applicant preferred a representation which was rejected giving rise to the present OA.

16

3. Learned counsel of the applicant Shri S.K.Gupta contended that in the light of the decision of a division bench in OA 2044/99 in Rajinder Singh Vs. Union of India decided on 3.2.2000 (Annexure A.6) in identical circumstances directions have been issued to the respondents to consider the appointment of the applicant if on availability of vacancy of EDA if the applicant therein prefers a representation. In this background it is stated that the applicant has already made a request to the respondents.

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DR(7)

4. On the other hand the learned counsel for the respondents Ms. Promila Safaya strongly rebutted the contentions and further stated that the applicant was not engaged as EDA but was provided by a regular incumbent to work during his absence as a substitute. In view of the larger bench decision of CAT the respondents circular dated 29.12.2000 no weightage is to be given to the experience gained as a substitute as such the applicant has no claim for regular post.

5. I have carefully considered the rival contentions of the parties and perused the material on record. Applicant's plea of claim of regularisation against a regular post on the strength of having worked as a substitute appointed was never appointed on the regular post but was only a substitute provided by one Shri Ashwani Chauhan.

6. However, having regard to the decision of the division Bench Supra where a similar claim of extra DA on his termination was disposed of ends of justice would be met, if the present OA is disposed of with a direction to the respondents that in the event of availability of

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vacancies of EDA exists and arise in future and if the applicant submits a request which he had already submitted he would be considered for appointment against the same in accordance with rules and directions and subject to his eligibility.

7. However, as applicant has already worked for 5 years with the respondents in the event of any vacant post of ~~SES~~ ^{EDA} and on fulfilling the eligibility criteria respondents shall consider the applicant for engagement in accordance with rules and directions.

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8. With these observations OA is disposed of. No costs.

S. Raju
(Shanker Raju)
Member (J)

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