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Central Administrative Tribunal, Principal Bench

Original Application No.1541 of 2002

M.A.Nos.1254 & 1255/2002

New Delhi, this the 6th day of June, 2002

**Hon'ble Mr. Justice Ashok Agarwal, Chairman**  
**Hon'ble Mr. S.A.T. Rizvi, Member (A)**

Shri Krishan Bhardwaj S/o Shri Bhagwan,  
R/o 183, Holambi Kalan, Delhi-82  
E.D.B.P.M. at B.P.O., Holambi Kalan  
Delhi-82

.... Applicant

(By Advocate: Shri Deepak Dewan)

Versus

1. Union of India, through  
The Secretary  
Ministry of Communication  
Govt. of India, Sanchar Bhawan,  
Sansad Marg, Patel Chowk  
New Delhi-1
2. Chief Post Master General  
Meghdut Bhawan, New Delhi-1
3. Senior Superintendent of Post Office  
Delhi North Division, Delhi-54
4. A.S.P.O.'s Ist, Sub-Division  
Ashok Vihar, Head Office,  
Delhi-52

.... Respondents

O R D E R (ORAL)

By Hon'ble Mr. S.A.T. Rizvi, Member (A)

Heard.

2. It appears that one Shri Ved Prakash held the post of E.D.B.P.M., Holambi Kalan on regular basis. After his dismissal from service, the aforesaid post fell vacant. One Shri Rohtash Kumar seems to have been appointed to work as E.D.B.P.M., Holambi Kalan, on provisional basis. The present applicant appears to have taken over the charge of the aforesaid post from the said Shri Rohtash Kumar on 4.12.98 (page 24 of the paper book). The document placed at page 36 of the paper book, shows that the applicant's

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pay and allowances were fixed by showing his designation as E.D.B.P.M. The aforesaid two documents are the only documents in support of the appointment of the applicant to work as E.D.B.P.M., Holambi Kalan. An appointment letter appointing the applicant regularly in the said post, has not been issued. Sometime after the applicant had started discharging the duties and responsibilities of the post of E.D.B.P.M., Holambi Kalan, the respondents proceeded to appoint one Smt. Kamlesh Kumari to work in his place. Her appointment was also stated to be provisional (page 44 of the paper book). This happened on 29.1.2001. It seems that the aforesaid Smt. Kamlesh Kumari eventually backed ~~out~~ <sup>out</sup> and, therefore, her appointment on provisional basis as above was cancelled on 24.4.2002 (Annexure A-5). The applicant continues to discharge the duties and responsibilities attached to the post of E.D.B.P.M., Holambi Kalan. Since no-one has been regularly appointed in the aforesaid post after the dismissal from service of Shri Ved Prakash, the respondents have finally issued a public notice dated 6.5.2002 (Annexure A-1) by which they have invited applications for the purpose from interested persons. The last date fixed for the purpose, as shown in the aforesaid public notice, is 5.6.2002. Applicant has admittedly not applied for being considered for appointment in the aforesaid post on a regular basis. Since the applicant has been continuously working in the post of EDBPM right from 4.12.98, according to the learned counsel, he should be regularised in the post. Accordingly the applicant has challenged the aforesaid notice dated 6.5.2002 issued for regular appointment in the same post.

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3. We have considered the submissions made by the learned counsel. Nothing has been shown by him to convince us that the applicant was regularly appointed in the post of E.D.B.P.M. at any point of time. It is clear that he has been working only provisionally right from 4.12.98. Such an appointment cannot give any right for regular appointment in the same post. In view of this, we find that no case is made out for quashing and setting aside the aforesaid notice dated 6.5.2002. It is in the fitness of things that respondents proceed to make a regular appointment after making an appropriate selection from amongst those who filed applications in pursuance of the aforesaid notice.

4. In the light of the foregoing, we find no merit in the present O.A. which is dismissed in limine.

5. During the course of hearing, the applicant's counsel has made a special submission for a direction to be issued by us to the respondents to see that the applicant is fixed up appropriately in view of his long provisional service of more than three years in accordance with the guidelines issued by the respondent department. He has, in this connection, relied on the instructions contained in D.G., P. & T. letter No.43-4/77-Pen., dated 23.2.79 which prescribes as under:

"Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED Agents discharged

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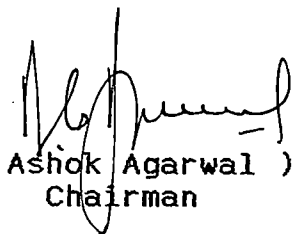
...from service."

6. We have considered the above submission and find that it would be just and proper to direct the respondents to have the applicant enlisted in accordance with the aforesaid instructions for fixing him up in an appropriate position, in due course as per the respondents' policy. We direct accordingly.



( S.A.T. Rizvi )  
Member (A)

/dkm/



( Ashok Agarwal )  
Chairman