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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO..958/2001

New Delhi, this the 30th day of October, 2001

HON'BLE SH. SHANKER RAJU, MEMBER (J)

Shri Subhash Chander Pandey
S/o Shri Suresh Chander Pandey
Working as E.D. Packer
in Patparganj post office Delhi
under Delhi East Postal Division of Delhi Circle.

Address for service of notices

C/o Sant Lal, Advocate
C-21 (B), New Multan Nagar
Delhi - 110056.

...Applicant

(By Advocate : Sh. Sant Lal)

Versus

1. The Union of India
Through the Secretary
M/o Communication, Deptt. of Posts
Dak Bhawan, New Delhi-110001.
2. The Sr. Supdt. of Post Offices
Delhi East Division
Krishna Nagar, Delhi-110051.
3. The Asstt. Supdt. of Post Offices
Delhi East Sub Division
Delhi-110091.

...Respondents

(By Advocate : Sh. S.M.Arif)

O R D E R (ORAL)

By Sh. Shanker Raju, Member (J)

The applicant in this case who had worked for 5 years as substitute Extra Departmental Agent (EDA) and has sought regularisation of his services as EDA taking into consideration the length of service and also to give him the same treatment as accorded to Ram Bir Singh. The applicant has also claimed consequential benefits.

2. In pursuance of an interim order passed by this Court 23.4.2001 the applicant is continuing as EDA. Learned counsel for the applicant Sh. Sant Lal stated by placing reliance on the decision of the Full Bench of this Court in B.M.Nagesh vs.

Assistant Superintendent P.O., Bangalore, wherein by placing reliance on the DG letter dated 23.2.79 which envisaged that efforts should be made to give alternate employment to EDA to appoint provisionally and subsequently discharged and put in at least 3 years service. It is also contended that in the Full Bench though weightage for the past service and regularisation after completion of 180 days has been denied but yet observations have been made to the fact that the claim of consideration for alternate employment is different from grant of weightage in respect of experience, as the instructions provided for grant of employment to those who had put in 3 years of service. Further contending it is stated that one Ram Bir Singh has been accorded regular status who had rendered service of three years but the denial of the same benefit to the applicant is contrary to Article 14 and 16 of the Constitution of India. In this context the learned counsel for the applicant has further placed reliance on the decision of the Apex Court in Union of India & others vs. Debika Guha & others cited in 2000 (2) SC SLJ 132 wherein though not acceding to the prayer of the petitioner for regularisation of substitute EDA after completion of 180 days it has been observed that it is open to the Appellants to examine the case where the incumbents have worked continuously for long periods. In this view of the matter it is stated that his case may be considered for accord of alternate employment.

3. On the other hand strongly rebutting the contentions of the applicant learned counsel for respondents stated that the claim of the applicant for regularisation cannot be accorded in view of the decision of the Full Bench in B.M.Nagesh

(supra). Learned counsel has also placed reliance in Girdhari Lal vs. Union of India OA-2829/99 decided on 18.5.2001 wherein the request of the applicant for regularisation as a substitute EDA has been rejected by further filing an additional affidavit the respondents contended that Sh. Ram Bir Singh whose service has been dispensed with on account of the misconduct a decision has been taken by the Chief Post Master General to accord him a opportunity and thereafter he has been appointed on regular basis as such. Ram Bir Singh is not similarly circumstance and as such there is no discrimination. Having regard to the rival contention of the parties the claim of the applicant for regularisation as EDA cannot be countenanced in view of the decision of the Full Bench in B.M.Nagesh (supra).

4. As regards the contention of according alternate employment to the applicant is concerned I find that applicant having passed 8th class is fulfilling the criteria laid down under the relevant rules for appointment as EDA. As the Full Bench in the decision has made an observation in view of the DOPT letter the respondents are to consider the cases of incumbents who had completed at least 3 years service before they were discharged and this has been distinguished from a right of claiming weightage of experience and also having regard to the decision of the Apex Court in Debika Guha's case the respondents are to consider the case of the applicant for accord of an alternate employment as EDA in accordance with the rules and statutory instructions.

(4)

5. The present OA is disposed of with the direction to the respondents to consider the applicant for alternate employment as EDA in accordance with their statutory rules and instructions within a period of 3 months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
Member (J)

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