

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.237 of 1999

New Delhi, this 7th day of September, 2000

HON'BLE MRS. SHANTA SHAstry, MEMBER(A)

Pahup Singh
S/o Bhanwar Singh
C/o Amarlal Sahu
Gateeman Gate No.8
Badli Railway Station
Delhi.

...Applicant

(By Advocate: Shri D.P. Sharma)

versus

Union of India, through

1. Secretary
Ministry of Communication
Department of Posts
New Delhi.
2. Sr. Superintendent of Post Offices
Agra Division
Agra
3. The Sub Divisional Inspector Post
Offices, North Sub-Division
Agra. Respondents

(By Advocate: Shri K.R. Sachdeva)

Order

By Mrs Shanta Shastry, M(A)

The relief sought in this OA is to appoint the applicant on a regular basis against a vacant post of Extra Departmental Agent viz. EDDA, ED Packer, ED Mail Carrier or ED Runner etc.

2. The brief facts are that the applicant worked as Extra Departmental Agent (EDA, for short) continuously on the post of EDDA Mankeda Via Akola District Agra from 8.4.1997 to 9.6.1998, i.e. 428 days. Prior to this, he had

also worked in different spells at Deoratha P.O. Agra and for 22 days at Shahganj, Agra as ED Stamp Vendor. In all, the applicant worked for 1482 days. The post of EDDA Mankeda had fallen vacant due to resignation of a regular incumbent. The applicant was engaged to work as an outsider substitute on a temporary basis on the responsibility of Shri Goverdhan Singh, Mail Overseer, Fatehpur Sikri Line, Agra, subject to termination of the arrangement at any time without assigning any reason or notice. The said arrangement was terminated on 9.6.1998. The applicant applied for regular appointment against vacant post giving weightage for his past work. But he was not appointed as one Shri Ramesh Chand was appointed on 26.5.1998. The applicant made several representations to give him regular appointment on any post of EDA, but in vain. According to the applicant he fulfills all the conditions for the post of EDA as he is within the prescribed age limit and also fulfills the academic qualification as he has passed Matriculation. The applicant filed Civil Misc. Writ Petition No.19189/98 in the Hon'ble High Court of Allahabad for regularisation as an ED employee. The Hon'ble High Court disposed of the writ petition on 7.7.1998 with the directions to make a representation to the authority concerned who will decide the same within two months in accordance with law. The applicant made a

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representation on 2.9.1998 and the respondents rejected the same on 21.12.1998 which has been impugned in this OA.

3. The respondents have informed that the applicant that he was not regularly appointed on any post. He had worked for short period as a outsider substitute. There is no provision to give preference for such work and therefore his representation is rejected on this ground.

4. The applicant contends that he has worked in casual arrangements continuously as EDA. Since had worked continuously for 180 days, he has a right for regular absorption. The applicant has relied on the judgement of the Hon'ble Supreme Court dated 17.1.1986 in WP(C) Nos.59-60 Surendra Singh & Ors Vs Engineer-in-Chief CPWD & Ors wherein it was held that persons who are working from the last six months should be regularised.

5. In his rejoinder the applicant has drawn my attention to instructions contained in letter dated 25.11.1993 of the D.G. Posts, photocopy of which has been annexed as Annexure-I to the rejoinder. The relevant portion of the letter is reproduced below:

"This is essential as during such long uninterrupted officiating arrangements, the regular incumbents of the posts of ED Agents are

required to provide their substitutes and if such arrangement is allowed to continue for periods exceeding 180 days as a matter of rule, this will legitimize the claims of all the ED substitutes for regularization of their services as ED Agents thereby creating lot of administrative problems. It has to be ensured that the powers now delegated are exercised judiciously with full sense of responsibility."

6. The Learned counsel has also cited a letter dated 6.6.1988 which states that casual labourers whether full-time or part-time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED posts, provided they fulfil all the conditions and have put in a minimum service of one year. For this purpose, a service of 240 days in a year may be reckoned as one year's service.

7. The learned counsel for the applicant has also relied upon the judgements of the Principal Bench of the Tribunal in OA.1875/97 Radhey Shyam Vs UOI & Ors decided on 10.3.1998 and OA.1692/98 Shiv Kumar Vs UOI & Ors decided on 10.5.1999 in support of his prayer. In these cases the claims of the applicants who had worked as substitute EDDAs for more than 180 days were allowed and the respondents were directed to consider their case along with those of other candidates against the vacancies of EDA giving due consideration and weightage to the service already rendered by them.

8. The Learned counsel for the respondents contests the claim of the applicant and submits that the applicant was engaged as a substitute. It was a temporary arrangement and could be terminated at any time without any reason. He was never appointed as a regular EDDA. The SDI(N) Agra was permitted to fill up the post of EDDA Mankeda. The employment Exchange, Agra, was asked to send a list of nominees for the post and the sponsored candidates were addressed to submit their applications along with certificates. Initially only 2 applications were received. So a general notification was issued on 29.12.1997 for obtaining sufficient applications giving preference to ST/OBC candidates. Finally the candidate belonging to OBC was appointed as per rules. The respondents have not denied that the applicant worked as substitute in short term vacancies but as substitute and till the regular arrangement was made. He was not engaged by the department. The respondents submit that the judgement of the Hon'ble Supreme Court cited by the applicant is not applicable in his case. There is no provision to give regular appointment to such people under the rules. According to the respondents the applicant is not entitled to any relief.

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9. I find that the applicant was engaged as a substitute EDDA in different spells and he fulfills the conditions laid down for the post. He has certainly rendered service of more than 240 days as has been admitted even by the respondents from 5.4.1997 to 8.6.1998 without break, i.e. for about a period of one-and-half years. Therefore, as per the instructions of the Postal Department cited supra as well as in view of the judgements of this Tribunal in various cases granting relief to the applicants therein, in my view, the applicant is entitled for consideration for appointment on regular basis as EDDA. I am fortified in my view by the decision in the case of Shiv Shankar VS UOI & Ors in OA.792/99 decided by the Single Bench of the Tribunal only recently on 26.5.2000 wherein the applicant was similarly placed as the present applicant. In fact, in that OA, in spite of alleged unsatisfactory work by the applicant, the Tribunal directed to consider his case. There is no complaint against the working of the applicant in the present case. Therefore, the applicant deserves regularisation all the more.

10. In the facts and circumstances of the case, the respondents are directed to consider the case of the applicant against any vacancy of EDA which may arise along with other candidates

who may be sponsored. Due consideration and preference on account of service period rendered by the applicant shall be given. ^{c A is disposed of accordingly.} ^{^ No costs.}

(Mrs Shanta Shastray)
Member(A)

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