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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1047 of 2000

New Delhi, this the 23rd day of July, 2002

HON'BLE MR.KULDIP SINGH, MEMBER(J)
HON'BLE MR.S.A.T.RIZVI, MEMBER(A)

Murari Lal S/o Shri Phool Singh,
R/o Village and Post Tarauli
Via-Chaumuhan Distt. Mathura

-APPLICANT

(By Advocate: Shri D.P.Sharma)

Versus

1. Union of India
through Secretary
Ministry of Communication
Department of Posts - New Delhi.
2. The Postmaster General Agra Region Agra.
3. The Senior Supdt of Postoffices,
Mathura Division, Mathura.
4. The Asstt. Supdt. Post Offices,
West Sub Division Mathura

-RESPONDENTS

(By Advocate :Shri N.S.Mehta)

O R D E R (ORAL)

By Shri S.A.T.Rizvi.

Non-regularisation of the applicant as an Extra Departmental Delivery Agent (EDDA) even though he had worked as a substitute EDDA for little more than 2 years from 9.2.1998 to 23.2.2000 has led to the filing of the present OA.

2. Briefly stated the facts of the case are that one Shri Hari Singh, EDBPM, Tarauli got involved in a criminal case under Section 302 of the IPC, and was arrested by the Police on 6.2.1998. Thereafter, he was put off duty and Shri Narain Singh, EDDA, Tarauli was given the charge of the post of the EDBPM on 9.2.1998. Thereupon, the aforesaid Shri Narain Singh engaged the applicant as his substitute by accepting responsibility

for his work. Accordingly, the respondents issued a Memorandum of the same date (9.2.1998) (A-1 & A-2) stating therein that the applicant had been engaged as EDDA Tarauli vice Shri Narain Singh at the responsibility of the latter. The applicant, in the circumstances, started discharging the duties and responsibilities of a substitute EDDA w.e.f. 9.2.1998. On 4.1.2000 (R-4), the aforesaid Shri Narain Singh informed the respondents that due to complaint against the applicant he was no longer keen to permit the applicant to work at his responsibility. He requested the respondents to make alternative arrangements. By their letter of 10.1.2000 (R-5) the respondents, after noting the position, directed Shri Narain Singh to name another substitute. According to the respondents, the aforesaid Shri Narain Singh subsequently did not relieve the applicant for one reason or the other and ultimately the applicant himself gave up the job on his own w.e.f. 23.2.2000. There is no dispute about this date being the date on which the applicant gave up the job of substitute EDDA Tarauli.

3. The applicant's case is that being qualified for the post of EDDA and given the experience of working as substitute EDDA for more than two years he is entitled to be considered for regularisation as an EDDA in terms of DG Posts Instructions dated 25.11.1993 which provides that if someone works as an EDDA for more than 180 days in one spell as a substitute, his claim for regularisation gets legitimized.

4. Besides, the D.G.Posts Instructions aforesaid, the applicant has also placed reliance on the judgements rendered by this Tribunal on 18th October, 1997 in OA 202/1997 (A-5), dated 10th May, 1999 in OA 1692/1998 (A-6) and dated 10th March, 1998 in OA 1875/1997 (A-7).

5. The learned counsel appearing on behalf of the respondents has, on the other hand, placed reliance on the judgement rendered by the 5-Member Bench of this Tribunal in **D.M.Nagesh Vs. Assistant Superintendent of Post Office and Another**. According to him, the various pleas advanced on behalf of the applicant in the present OA had come up for consideration before the aforesaid Bench and, if the findings recorded by the aforesaid Bench are kept in view, the applicant has no case.

6. In OA 202/1997 which dealt with a similar case, directions were given by the Tribunal to the respondents to consider the case of the applicant in that OA by giving weightage to the long period of service rendered by him. Age relaxation was also granted. In deciding the matter, the Tribunal had relied on the provisions of the D.G.Posts aforesaid Instructions dated 25.11.1993, and referencee was also made to the D.G.Posts Instructions dated 6.6.1988 dealing with the casual labourers. A similar order was passed by the Tribunal in OA 1692/1998 by relying on the D.G.Posts Instruction dated 25.11.1993 to the effect that after completion of 180 days of work as a substitute, the incumbent's claim for regularisation is legitimized. OA 187/1997 was also disposed of similarly.

7. We have considered the submissions made by the learned counsel on either side. We have also, at the instances of the learned senior counsel for the respondents, perused the relevant portions of the judgement rendered by the 5-Member Bench of this Tribunal at Bangalore on 19/20th April, 2000 a copy of which has been placed on record at R-46. Referring to the question of giving weightage to be given in respect of past experience of working as a substitute, the aforesaid 5-Member Bench held as follows:-

" 33. In view of the foregoing discussion we have no hesitation in holding that the decision of the Full Bench in the case of G.S.Parvathy which directs weightage to be given, cannot be sustained and the same is accordingly overruled in so far as the aforesaid question is concerned."

While dealing with the question of extending the benefits available to casual labour to those with experience of working as substitute EDDAs, the same 5-Member Bench held as follows:

"34. This takes us to the consideration of the next issue viz. whether the benefit of the instructions contained in DGP's letter dated 6.6.98 can be claimed by an ED agent appointed either as a substitute or on a provisional basis on his/her completing continuous service of 240 days in a year?

..... The Tribunal in the instant case has also extended the benefits which are conferred on casual labourers to candidate who had been appointed provisionally or by way of stop gap arrangement as ED agent. The same, in view of the ratio laid in the aforesaid decision, cannot be sustained. The candidates appointed as casual labourers and to whom the scheme of regularisation is applicable are entirely distinct from

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the candidates who are appointed as ED agents on ad hoc or provisional basis or by way of a stop gap arrangement. The benefit conferred on casual labourers, therefore, cannot be extended in favour of the applicants who have been appointed on provisional and ad hoc basis. The aforesaid decision of the Division Bench in the case of Nagarju which takes a view contrary to the view taken by us is in the circumstances overruled."

8. The learned senior counsel for the respondents has also placed before us a copy of the order passed by this Tribunal on 25.1.2002 in RA 81/2000 in OA 792/1999. In the aforesaid RA, a decision earlier taken by the Tribunal on the lines of OA 202/1997 was sought to be reviewed. The Tribunal inevitably relied on the judgement rendered by the aforesaid 5-Member Bench and recalled its order and proceeded to dismiss the OA 792/1999.

9. For the reasons mentioned in the preceding paragraphs, we find no merit in the present OA which is dismissed. There shall be no order as to costs.



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



(Kuldip Singh)
Member(J)

/kd/