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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.2509 of 2000

New Delhi, this 21st day of May,2001

HON'BLE SHRI KULDIP SINGH, MEMBER(J)

HON'BLE SHRI M.P.SINGH, MEMBER(A)

Umesh Kumar

S/o Shri Ram Shankar Sharma

R/o Mahapur PO:Arnota, Teh. Bah (Agra)

at present Shivaji Nagar

Fatehbad (Agra)

... Applicant

(By Advocate:Shri D.P. Sharma)

versus

1. Union of India
through Secretary
Ministry of Communications
(Department of Posts)
New Delhi

2. The Post Master General
Agra Region
Agra

3. The Sr. Supdt. of Post Offices
Agra Division
Agra

4. The Assistant Supdt. of Post Offices
(Central) Sub Division
Agra

... Respondents

(By Advocate:Shri K.R.Sachdeva)

ORDER

Shri M.P.Singh,M(A)

The applicant in this OA has sought relief by praying for direction for regular appointment on any vacant post of an Extra Departmental Agent (EDA, for short) under the jurisdiction of respondent No.4 and has also sought direction to extend the benefit of the judgements granted in OAs annexed as Annexure A-9 to Annexure A-11.




2. The brief facts of the case, as stated by the applicant are that he was engaged as Extra Departmental Runner (EDR, for short), Swara district, Agra during 24.5.96 to 31.1.1997 (252 days), 6.4.1998 to 15.4.1998 (10 days), 18.1.1999 to 29.1.1999 (12 days) and 3.5.2000 to 30.9.2000 (151 days), i.e. for 425 days. As per Recruitment Rules for EDA, the maximum age limit of recruitment is 65 years and for Extra Departmental Sub Postmasters (EDSPM, for short) and Extra Departmental Branch Postmaster (EDBPM, for short), the academic qualification is Matriculation. The applicant is Intermediate passed and is within the prescribed age limit for all the posts of EDAs.

3. One Shri Rati Ram EDR, Swara, was working as EDBPM, Gubranth, against the vacant post and the applicant was working as EDR, Swara, vice Shri Rati Ram. The arrangement on the higher post of Shri Rati Ram is still continued, but appointment of the applicant has been terminated. A post of ED Delivery Agent, Nibora, fell vacant and the applicant applied for that post to respondent No.4 on the basis of preference on account of his past service. He has made representation for his regular appointment to respondents Nos.2 & 3 on 7.9.2000, but the applicant has not been given regular appointment. Aggrieved by this, he has filed this OA seeking the aforesaid reliefs.



4. The respondents in their reply have stated that the post of EDR, Swara (Fatehbad) had fallen vacant on 24.5.1996 due to promotion of Shri Ranvir Singh, EDR in postman cadre and Shri Umesh Kumar, S/O Shri Ram Shanker Sharma was engaged as officiating EDR, Swara, to look after the work with effect from 24.5.1996. In order to fill up the vacancy on regular basis, the Employment Exchange was addressed to sponsor the names of suitable candidates. A list of candidates was sent by the Employment Exchange on 3.9.1996 in which the name of the applicant was not sponsored. During the process of regular appointment, the applicant was discharged on 31.1.1997 engaging another person named Shri Rajesh Kumar. The regular appointment against the post was made on 17.4.1997 appointing Sri Rati Ram. As Shri Rati Ram, EDR, Swara, was officiating as BPM, Gubronth, the applicant was engaged as his substitute on 3.5.2000 with clear instruction that he may be discharged any time without assigning any notice and reason, and with clear warning that he shall have no claim for further engagement in the department. He was accordingly discharged on 30.9.2000. It is also submitted by the respondents that no preference for regular appointment be given to a person on the ground that he had earlier worked




for 240 days or more as a substitute of a regular incumbent. According to the respondents, the implications of the instructions contained in office letter dated 6.6.1988, came up for judicial scrutiny before the various Benches of the Central Administrative Tribunal. As per the judicial pronouncements made, department was directed to give weightage to past service rendered either as substitute EDA or on provisional basis in brief spells. Both the issues came up for review before the Larger Bench of the Tribunal. The aforesaid two issues are as follows:

(a) Whether in the light of the instructions regarding the method of recruitment issued by the Department, the Tribunal can give instructions to give weightage to an applicant for ED Agent's post for the experience gained by him while working as ED Agent on a provisional basis or as a substitute as has been done in the case of G.S.Parvathy Vs Sub Divisional Inspector (Postal) (1992)(21) ATC(FB)13; and

(b) Whether the benefit of the instructions contained in DG(Posts)'s letter dated 6.6.1988 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.

5. The Larger Bench in its judgement dated 19/20.4.2000 in the case of D.M.Nagesh & Ors. etc. etc. Vs. The Assistant Superintendent of Post Office, Bangalore South, Bangalore & Ors. 2002 (2) ATJ 259 held as under:-

(i) "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. The




aforesaid issue No.1 referred to the present full bench is answered in the negative.

(ii) As regards the issue No.2, the Larger Bench has inter-alia observed as follows:

"This takes us to the consideration of next issue whether the benefits of the instructions contained in DG(P)'s letter dated 6.6.1988 can be claimed by an ED Agent appointed either as a substitute or on provisional basis on his/her completing continuous service of 240 days in a year. The larger Bench has further observed that the letter dated 6.6.1988, in their view deals with the service of casual labourers seeking to give benefit to them who have put 240 days in a year whether on full time or part-time for recruitment to the ED post". On the basis of the elaborate reasons given in the judgement, the larger Bench has answered the above mentioned issue No.2 also in negative."

6. Heard the learned counsel for the rival contesting parties and perused the record.

7. The question for consideration before us is whether the applicant can be given the benefit of the directions given in OA.No.202/97 decided on 14.10.1997, OA.1875/97 decided on 10.3.1998 and OA.No.1692/98 decided on 10.5.1999 for his regular appointment as EDA. In view of the judgement of the Larger Bench (supra), the benefit of the directions given in the earlier OAs supra cannot be given to the applicant. The present OA is squarely covered by the judgement of the Larger Bench of the Tribunal dated 19/20.4.2000 in the case of D.M.Nagesh Vs ASP, Bangalore, (2000 (2) ATJ 259) and does not merit consideration.



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8. For the reasons stated above, the OA is devoid of merit and the same is accordingly dismissed. No order as to costs.


(M.P. Singh)
Member(A)

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(Kuldip Singh)
Member(J)