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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.2602/2000

New Delhi, this the 6th day of September, 2001

Mahesh Chand
s/o Shri Anoop Singh
r/o 5/237, Near Antony School
Sant Pura
Govind Puri
Ghaziabad.

... Applicanttt

(By Advocate: Shri S.K.Gupta, proxy of Shri B.S.Gupta)

Vs.

1. Union of India
through Secretary
Department of Posts
Dak Tar Bhawan
Parliament Street
New Delhi.
2. Chief Post Master General
Lucknow Circle,
Lucknow.
3. Sr. Supdt. of Post Offices
Post Kavi Nagar
Ghaziabad.
4. Asstt. Supdt. of Post Offices
North Ghaziabad, Post Kavi Nagar
Ghaziabad.
5. Smt. Kavita Devi
W/o Late Sh. Revti Prasad
EDMC Newari
Modi Nagar
Ghaziabad.

... Respondents

(By Advocate: Shri N.S.Mehta)

O R D E R(Oral)

By Shanker Raju, Member (J):

The grievance of the applicant is that though he has been regularly appointed as Extra Departmental Mail Carrier since 1997, his services have been dispensed with to accommodate one Smt. Kanta Devi, on compassionate appointment, in relaxation of the Rules. The learned counsel for the applicant has also states that the applicant has been engaged after following the criteria as has been done in the case of regular

appointment. In support, he has taken resort to a decision in CP No.72/99 dated 19.9.2000 in OA no.722/1993 in the case of Prakash Chand and Another vs. UOI & Others, as well as in RA 272/2000 (Gian Singh vs. UOI & Others) wherein after considering the process of appointment, it has been observed by this Court that though the word has been stated to be 'provisional' but in fact it was a regular appointment.

2. On the other hand, strongly rebutting the contentions of the applicant, Shri N.S.Mehta, learned Sr. Standing Counsel, stated that the appointment is only a provisional and he has no claim whatsoever in view of the terms and conditions of the appointment order.

3. I have heard the learned counsel on either side and I have also carefully considered the rival contentions of both the parties and also perused the material on record. In my considered view and having supported by the ratio cited by the learned counsel for the applicant in CP, I am of the confirmed view that though the applicant's appointment as a EDMC was observed as 'provisional' but he has been subjected to all the regular criteria as such his appointment was a regular appointment. Though the respondents in order to accommodate as a compassion, ^{appointed} Smt. Kanta Devi, widow of the deceased Government servant, in relaxation of rules and as per their rules contained to this effect, Without disturbing the appointment of Smt. Kanta Devi, the present OA is disposed of with the directions to the respondents to appoint the

applicant as EDMC with continuity of service but without back wages within a period of three months from the date of receipt of a copy of this order. The OA is accordingly disposed of. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/