

FORM NO. 2
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Report on the Scrutiny of Application

Diary No. 487
Presented by: Dr. Yogesh Sharma Date of Presentation: 24-3-2020
Applicant(s): Lalit Kumar Group: Casual labor
Respondent(s): Union of India
Nature of grievance: Termination
No. of Applicants: One No. of Respondents: One
CLASSIFICATION
Subject: Termination (No. 24) Department: Co (No. 1)
(28) * If S.B.

Retention Date: 27/3/20
By: Registrar (A)

1. Is the application is in the proper form?
(three complete sets in paper book form in two compilations). (PROFORMA/COMPILATION) ✓
2. Whether name, description and address of all the parties been furnished in the cause title? Yes ✓
3. (a) Had the application been duly signed and verified? (SIGNED/VERIFIED) ✓
(b) Have the copies been duly signed? Yes
(c) Have sufficient number of copies of the application been filed? Yes
4. Whether all the necessary parties are impleaded? Yes
5. Whether English translation of documents in a language other than English or Hindi been filed? Yes
6. (a) Is the application in time? Yes
(See Section 21)
(b) Is MA for condonation of delay filed? NA
7. Has the Vakalatnama/Memo of appearance/00 authorisation been filed? Not complete
8. Is the application maintainable?
(u/s 2,14,18 or U/R 6 etc. u/s 2, u/s 14, u/s 18
U/R 6, PT u/s, 25 file
9. Is the application accompanied by IPO/DD for Rs.50/-? Yes Not Recd
10. Has the impugned orders original/duly attested legible copy been filed? LEGIBLE/ATTESTED
11. Have legible copies of the annexure duly attested been filed? LEGIBLE/ATTESTED

pages 14, 15

07480/2000

12. Has the index of documents been filed and pagination done properly?

FILED/PAGINATION

13. Has the applicant exhausted all available remedies?

14. Have the declaration as required by item 7 of Form-I been made?

15. Have required number of envelopes (file size) bearing full address of the respondents been filed?

16. (a) Whether the reliefs sought for, arise out of single cause of action?

(b) Whether any interim relief is prayed for?

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant?

18. Whether this case can be heard by Single Bench? *Reply also be given*

19. Any other point?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on ;

- (a) MA for joining - U/R (5)(a)/4(5)(b)
- (b) MA U/R 6 of CAT Procedure Rules, 1987
- (c) PT u/s 25 under At ACT
- (d) MA for condonation of Delay;

OR

The application has not been found in order in respect at item No(s) mentioned below;

- 7, 10, 11, 18
- (a) Item Nos.
 - (b) Application is not on prescribed size of paper.
 - (c) MA U/R 4(5)(a)/4(5)(b) has not been filed.
 - (d) Application/counsel has not signed each page of the application/documents.
 - (e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

JOINT REGISTRAR

COURT NO. _____ DATE _____

R/sir, objection raised ⑦

*70, There is no impugned order in this case
11, dim pages 14 & 15 replaced by fair copies
18 - This is a single bench matter*

807/11

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.**

O.A.No. 480 OF 2000

IN THE MATTER OF :

Lalit Kumar.....Applicant.

Versus

Union of India & Others.Respondents

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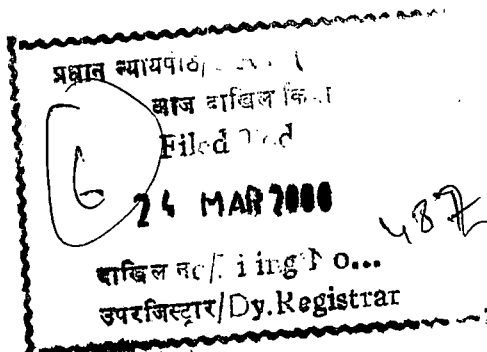
19

11. Vakalatnama

Applicant.

through counsel:

(Yogesh Sharma)Advocate,
RZ-693, Raj Nagar-I,
Palam colony, New Delhi-45.
T.No.5084157.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH NEW DELHI

O.A.NO. 1980 OF 2000.

IN THE MATTER OF :

Lalit Kumar s/o Sh. Kartar Singh,
R/O L-I-32, Budh Vihar,
Delhi-41. Applicant.

Versus

1. Union India through The Director
Department of Posts, Dak Tar Bhawan,
New Delhi.
2. The Chief Post Master General,
Delhi Circle, New Delhi.
3. The Sr. Supdt. of Post office,
Delhi North Division, Civil Lines,
Delhi.
4. The Asstt. Supdt. of Post office,
Delhi North IIIrd Division, Delhi-85 Respondents.

DETAILS OF THE APPLICATION :

1. Particulars of the order/action against which application is
being made :

This application is being made against the action of the
respondents by which the respondents terminating the service
of the applicants w.e.f 21.5.99 without issuing any show cause
notice and without passing any order and without including the



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name of the applicant in waiting list for future appointment and for alternative appointment which is illegal, unjust, arbitrary, against the rules, against the instructions and therefore the applicant is entitled for his re-engagement preference to juniors and freshers on the grounds stated in the para 5 of the OA.

2. JURISDICTION OF THE TRIBUNAL :

That the applicant declares that the subject matter against which the application is being made is within the jurisdiction of the Tribunal.

3. LIMITATION :

That the applicant declares that the subject matter against which the application is being made is within the period of limitation as prescribed in sec. 21 of the AT ACT, 1985.

4. FACTS OF THE CASE :

That facts of the case are as under :

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That the applicant was born in the year 1977 on 12.4.1977 and is hails from very poor family and because of poverty he could not continue his studies after passing 10 th class.

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That the applicant was initially engaged as Extra-Department Packer(in short E.D.Packer) in the 1997 on 1.1.1997 in Post office Nangaloi. It is submitted that the applicantg was transferred from Post office Nangaloi to Post office Sultanpuri 'F' Block in the year1997 w.e.f. 2.6.97 vide respondents order dated 31.5.97(Annex.P-1) and since 1.1.97, the applicant served the deparfiment till his dis-engagement to the entire satisfaction of his seniors and there has been no any complaint against the respondents from any corner.

That it is relevant to submit here that the applicant was initailly engaged against a vacant regular post and subsequen tranferred also against a vacant regulr postg as Subsitute. It is relevant to submit here that the applicant made a representation vide dt.16.11.98 for his regularisation but no action was taken by the respondents.

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That it is relevant to submit here that in Nov.,99 the respondents invited the application from open market as well through employment exchange for 11 post of E.D.Agent, in which the applicant was also applied and the applicant was called for his interview vide letter dt.25.1.99(Annex.A-3) in which the applicant was appeared but the respondents considered the applicant as a fresh candidate and the applicant was not given any weightage and appointed fresh persons from market.

That it is relevant to submit here that the applicant made representation from his regularisation on the post of E.D.Packer on which the applicant was working since long but the respondents without considering the case of the applicant for his regularisation appointed a fresh person namely Smt. Girja Devi and terminated the service of the applicant vide verbal order dt.21.5.99.

Confession

[Signature]

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That the respondents without giving any show cause notice and any written order terminated the service of the applicant w.e.f 21.5.1995 inspite of the facts that juniors and present persons to the applicant are still working the in the office the respondents.

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That it is relevant to submit here that after taking the service of the applicant the respondents appointed fresh persons on permanent basis without considering the case of the applicant as per the Govt. of India Instructions , as the applicant who worked the department for more than 27 months continously and wtihout given any preference and weihtage which is illegal and violates Art. 14 and 16 of the constituion of India.

That the applicant made number of representation one after another for regularisation of his service and for re-engagement in preference to juniors and freshers but till date no reply has been received by the applicant.

That the whole action of the respondents terminating the service of the applicant without considering his case for regularisation as per the Govt. of India instructions which is illegal, unjust, arbitrary, against the ruels and therefore the

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applicant is entitled for his re-engagement and regularisation on the following grounds :

GROUND:

In view of the facts stated above the case of the applicant is based on the following grounds:

a) Because, the applicant was not appointed on stop gap arrangement but was appointed against the vacant permanent post as the post was vacated by the regular employee, after completion of all the formalities and the applicant completed 240 days in two consecutive years and therefore the applicant is entitled for his regularisation on the posts as laid down by the Hon'ble CAT Cuttack Bench in the case of Mod. Jalal Baig and another Versus Union Of India reported in 275 Swamy's Case Law Digest 1995/1 page No. 4213 and the relevant part of the same is as under"

"We have no hesitation in findings that they have worked in two consecutive years from more than 240 days and hence their service are to be regularised. Accordingly, we allow this OA and direct the respondents to regularise their service as the vacancies existing or if there are no such vacancies, that may occur keeping in view of the seniority in the waiting list."

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- b) Because, it is clearly stated in DG.Post, letter No.17-141/88-EDC & Trg., dated 6.6.88 that the person who is completed 240 days whether part time or full time basis and are willing to be appointed as ED vacancies may be given preference in the matter of recruitment to ED posts, and present case, the applicant completed more than 240 days continuously and therefore he is entitled for his regularisation in preference to freshers and therefore the action of the respondents is not only illegal but also against the instructions
- c) Because, the applicant completed 240 days continuous service and therefore termination of his service without issuing notice is illegal in the light of provision of ID.Act, as the Dept. of Post is an Industry as laid down by the Hon'ble Division Bench in the case of Kan Dass Versus union of India & others reported in 1994(1) ATJ 478.
- d) Because, it is well settled principle of law laid down by the Hon'ble Division bench of CAT Bombay bench in the case of Shrim Sarjerao Akaram Shete Versus Union of India that old EDBPM not appointed on regular basis should be given
- R

weightage to experience gained by the applicant for his regularisation., reported in 1994(2)ATJ 574.

e) Because, the respondents not treated the applicant as a old persons and not given any weightage of his past service and treated the applicant as fresh candidate in the interview which is illegal in the eyes of law as well as in the light of law laid down by the Hon'ble Full Bench in the case reported in 1992(1) SLJ CAT 540, G.S. Parvathy versus The Sub-Divisional Inspector & Others.

6. Details of the remedies exhausted:

That the applicant declares that he has availed all the remedies available with him by way of making representation but no use.

Hence this OA at this stage.

7. Matter not previously filed or pending before the Hon'ble court.

That the applicant further declares that he has not filed any other OA before any bench of the Tribunal and no case is pending before the Hon'ble Supreme court of India.



8. Relief:

In view of the facts and grounds stated above the applicant prays for the following reliefs:

- (i) That the Hon'ble Tribunal may graciously be pleased to pass an order of allowing the OA of the applicant with the costs of litigation.
- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the action of the respondents terminating the service of the applicant is illegal, unjust, and against the rules and consequently the applicant is entitled for his re-instatement in service and for regularisation.
- (iii) That the Hon'ble Tribunal may graciously be pleased to pass an order direct the respondents to re-consider the case of the applicant his regularisation after given the weightage of past service.
- ✓ (iv) Alternatively, the Hon'ble Tribunal may graciously be pleased to pass an order directing



the respondents to include the name of the applicant in waiting list and consider for engagement in future vacancies as per waiting list.

(v) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant.

9. Interim relief if any prayed:

NIL

10. Para No. 10 is not applicable as the application is being made through a legal practitioner.

11. Particulars of Postal order:

(i) No. of Postal order:

29 063566

(ii) Date of issuing:

24/3/200

(iii) P.O. from issuing:

B H New Delhi

(iv) At which payable:

New Delhi

12. List of Enclosures:

As per Index.

Verification :

Applicant

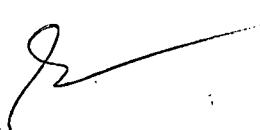
Lalit Kumar

I, Lalit Kumar s/o Sh. Kartar Singh, r/o L-1-32, Budh Vihar,

Delhi-41 do hereby verify that the contents of above paras No.

1 to 4 are true to the best of my knowledge and paras No. to 12

are to be believed on legal advice and that I have not suppressed any



Lalit Kumar

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का-7/Corr.-7

By hand

भारतीय डाक विभाग / DEPARTMENT OF POSTS INDIA
कार्यालय / Office of the

Sri Lalit Kumar

EO PR (Subscriber)

Manager, Darbhanga

B7/ Lalit Kumar (9798 31/579)

Subj. — Change duty on his request
by Sri Lalit Kumar EO PR
Subscriber

You are here by directed
to refer S.M. Sultanpur to
B.L. to Darbhanga with 2/5/97

Lalit Kumar
Manager

Manager

CR

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Manager

ए.सी.जी. ०-६१ भारतीय डाक-तार विभाग
A.C.G.-61 INDIAN POSTS AND TELEGRAPH DEPARTMENT
(देखिए नियम 267, डाक-तार विभाग नियम पुस्तिका, खण्ड I द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Department Special Handbook, Volume I Second Edition)
चार्ज की वजहों पर चार्ज रिपोर्ट और न.दो और टिकटों को रसाव
Charges Report and Receipt for cash and stamps on transfer of charge

राज
was made over by (name)

स्थान
at (place)

on the (date) ... 2/16/97 ... after noon in accordance with Adm. Plan

तारीख
Dated


n accordance with
 P. 177 167/100-11/98
 के अनुसार दे दिया : 100/51/5
 from 97

भारतमुक्त अधिकारी
 Released Officer

भारणाहो बंधकारी

(क०प०उ० / P.T.O.)

CTC



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भारतीय डाक विभाग

सेवा में

Lalit Kr L-32 Budh vihar

Delhi 110041

पत्रांक :- MSR/11/10/198 व 25/11/98

विषय :- आतिरिक्त विभागीय एजेंट हेतु

महोदय

आप का नाम शेरनगर कार्यालय से आतिरिक्त विभागीय एजेंट के पत्रांश के चयन हेतु प्रस्तावित किया है। अतः आप से निवेदन है कि दिनांक 12/11/98 को आपने अपने समस्त मूल पत्राण पत्र, जाति पत्राण पत्र यदि कोई है के साथ अनोदस्ताद्वार कर्ता के समक्ष निम्नांकित पत्र पर उपस्थित होने का कार्य करें। साथ के निश्चित तिथि पर उपस्थित होने पर यह सम्झा जायेगा कि आप आतिरिक्त विभागीय एजेंट के लिए इच्छुक नहीं हैं।

(प्राम)

सहायक डाक हाक डाकघर

दिल्ली जारी तृतीय उपखण्ड

शेडिंग दिल्ली - 110085

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14 8/4

कायालय/Office

21 वा ज

ML-528

मान्यवर

उपमुख्य महाशिव
रोहणी दिल्ली 83
द्वितीय प्रखण्ड

लाभजन्य निवदन है कि मैं

जनवरी 97 में L P Packe सुल्तानपुरी
ब्लॉक के आधिकार में लगाया गया था
जनवरी 97 से लेकर अब तक सुल्तानपुरी
आप से अनुरोध है कि मुझे SULTAN PURI
Block में L P Packe हे लगाने का
कष्ट करें

आपकी उद्दीक्षा मांगी

महेश्वरी

Latit Kumar

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ASS Director (Staff)

Delhi Circle.

New Delhi meynat

Bhawan

जीमान जी,

निवेदन है कि मैं ललित कुमार जनवरी

१९९७ से (Subordinate ED) Postmaster से पद पर नहीं लिया गया था लेकिन अंततः मेरी प्रमोशन मिशन नहीं हुई है। राजगार भवन मेरा नाम भी आया मैंने डून्डू भी दिया लेकिन मुझे अब भी नहीं लगाया जा रहा मैं ऐसा मानता गुनाहकर रहा है।

जो कि मैं से जुनियर लगाये जा रहे हैं
अतः मेरा आप से अनुरोध है कि मुझे ED के पद पर लाने की कृपा करें

आपकी आज्ञा कृपा होगी

भवदीय

ललित कुमार

पोस्ट ऑफिस सुलतानपुरी F-8
हलाक दिल्ली ११००५१



UTC

R

To.

1. Sh. B.L. MUDGAL
Sr. Supdt. of PO's
Delhi North Dn.
Delhi - 110054.
2. Sh. S.K. Sharma
Chief Post Master General
Delhi Circle
New Delhi - 110001.

Sub : **Discrimination in selection of ED. Packer - case of Sh. Lalit Kumar working as substitute vice Sh. Kirti Naryan ED Packer Sultan Puri, F-Block, P.O. Delhi.**

Hon'able Sir,

With due respect, I beg to lay down the following few lines for your kind perusal and sympathetic consideration :-

1. That I was appointed as substitute ED packer in Sultan Puri, F-Block, P.O. Delhi. vice Sh. Kirti Naryan on 2-6-97 vide letter No. B-7/Lalit Kumar/97-98 dated 31-5-97 (Copy enclosed as Annexure-I) after observing all eligibility formalities for selection of said post.
 2. That I was appointed against clear vacancy vacated by Sh. Kirti Naryan ED packer Sultan puri, F-Block, P.O. Delhi. Who was died on 8-4-97. Hence, in these circumstances, the said appointment can not be said to be substitute ED Packer vice Sh. Kirti Naryan under rules of P&T ED (conduct & service) Rules 1964. Moreover, I have been working as ED Packer continuously with out any break since 2-6-97.
 3. That Sh. Kirti Narain who was appointed as substitute ED Packer Sultan Puri, F-Block, Delhi on 3-2-1997 has been selected & appointed as ED Packer on 6-4-1997 after lapse of ____ year & 2 months by AS PO's Delhi. North IIIrd sub-Dn. Delhi. But I have not been selected & appointed against the post of ED Packer even than I have rendered service to the department more than 1 years & 9 months. Thus, this is discrimination in selection & appointment the ED Packer & violative of Article 14 & 16 of constitution of India.
- i) That I approached to Asstt. Director (Staff) o/o CPMG, Delhi circle, New Delhi-110001 for regulariation of my service against the post of ED Packer vide application dated 19-2-1999 but all in vain.

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4. That I was called for vide AS PO's Delhi North IIIrd Sub-Dn. Rohini Delhi-110085 letter No. AS PO's III/ED/R/III/98 dated 25.1.99 for inter view along with all original educational certificates on 4-2-99 at 11.00 (copy enclosed as Annexure - II). I again submitted the photocopies along with original educational certificates on 4.2.99 before the learned AS PO's Who examined the photocopies with original certificates and returned the original certificates to me. But no action for selection or regularisation against the post of ED Packer has been taken even morethan one month has since elapsed.

5. That it has now been come to my notice from the reliable sources that process for pre-appointment's formalities after selection against my said post of ED Packer are being made confidential by ignoring my selection & appointment against the post of ED Packer Sultan Puri, F-Block, P.O. Delhi 110041. Which is totally unjust, unfair and against the principle of natural justice.

➤ In the case of G.S. Parvathy v. Sub-Divisional Inspector (Postal), Guruvayoor and others --- (1992) 21 ATC, 13 (FB), CAT Ernakulam Full branch has held that "Weightage should be given to a provisional ED Agent for his experience at the time of regular selection, but it is made clear that previous experience will not be the only decisive factor for selection. It is to be taken into account along with the other relevant factors". The summary of judgement printed in the book of Service law in Practice is enclosed as Annexure-III for your kind perusal. Sir, In case my selection has not been made against the post of ED Packer on which I have been working as Substitute ED Packer since 2-6-1997, it would be unjustified in eye of law & in accordance of afore said judgement which is applicable in my case also. My Bio-Data is enclosed as Annexure IV.

PRAYER

➤ In view of above facts & circumstances, it is prayed to your honour to consider my this humble representation sympathetically & intervene into the selection & appointment of said post of ED Packer which is under process by Sh. Roop Chand Johar AS PO's Delhi North IIIrd Sub. Dn. Rohini Delhi-85 & issue necessary direction to the said authority to select and appoint me as ED Packer and save my life from the darkness and harassment which is expected from said authority.

Thanking you,

Yours Faithfully,

Dated :

(Lalit Kumar)

Substitute ED Packer

Sultan Puri, F-Block, Delhi-41

Copy to : Sh. Roop Chand Johar

AS PO's Delhi North IIIrd Sub Dn. DELHI-85

CTC

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Md. Jalal Baig and another v. Union of India and others

O.A. No. 94 of 1994. Date of Judgment 5-12-1994

When it is proved that the applicants have worked as ED substitutes and casual labourers for more than 240 days in two consecutive years, their services are to be regularized.

Facts: The applicants were appointed as ED substitutes and part-time casual labourers as and when required by the Respondents, since 1989. They have discharged their duties whenever they were required to do. In this application, they have prayed for regularization of their services as they have worked in the Railway Mail Service for more than 240 days in two consecutive years each.

Held: During arguments, learned Counsel for the respondents made available a chart containing the number of days on which they worked and it shows that in the year 1990 the applicant No. 1 worked for 274 days and in 1991, 257 days and again 242 days in the year 1992. As far as applicant No. 1 is concerned, he fairly admits that he has a case to be considered as he has worked for more number of days than the minimum required to regularize his services. As far as applicant No. 2 is concerned, the chart that he has produced does not reflect the correct position. However, Shri S.S. Das, appearing for the applicants invited our attention to his own sheets of attendance maintained in which it is shown that the applicant No. 2 has worked in the month of September, 1992 for 30 days which takes the number of days worked to more than 240 days. Unfortunately, it is squarely admitted that no Attendance Register as such is maintained in the manner that is required to be maintained to record the attendance of each of the workmen on the day he worked. We were only left with the Cash Register and the consolidated pay bills which show payments made to each of the workmen. However, Mr. A.K. Misra was very fair enough to point out to us from the Cash Register which shows that even for the month of September, 1992, the applicant No. 2 was paid for the number of days he has worked. This confusion could have been avoided only if regular Attendance Register is maintained. We hereby direct the respondents to maintain regular Attendance Register to show the attendance of each of the workmen every day in the position they work. As far as the present applicants are concerned, we have no hesitation in finding that they have worked in two consecutive years for more than 240 days and hence their services are to be regularized. Accordingly, we allow this OA and direct the respondents to regularize their services in the vacancies existing or if there are no such vacancies, that may occur keeping in view of the seniority in the waiting list.

OA is allowed.

(24) Preference to casual labourers in the matter of appointment as ED Agents.—According to the prevalent recruitment rules governing the cadre of Group 'D', the order of preference among various segments of eligible employee is as under—

- (a) Non-ED category
- (b) ED employees
- (c) Casual labourers
- (d) Part-time casual labourers.

2. Since the number of vacancies of Group 'D' is limited and the number of ED employees eligible for recruitment as Group 'D' is comparatively large, the casual labourers and part-time casual labourers hardly get any chance of their being absorbed as Group 'D'. Thus majority of casual labourers with long service are left out without any prospect of their getting absorbed in Group 'D' cadre.

3. Keeping the above in view, a suggestion has been put forth that casual labourers both full and part-time should be given preference for recruitment as Extra-Departmental Agents, in case they are willing, with a view to afford the casual labourers a chance for ultimate absorption as Group 'D'.

✓ 4. The suggestion has been examined in detail and it has been decided 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. It should be ensured that nominations are called for from Employment Exchange to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange.

[D.G., P.O., Letter No. 17-141/88-EDC & Trg., dated the 6th June, 1988.]

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

I

O.A.NO. 480 of 2000

IN THE MATTER OF :

Lalit Kumar.....Applicants.

Versus

Union of India & Others.....Respondents.

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<u>Sr.No.</u>	<u>Particulars of the Documents.</u>	<u>Page No.</u>
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1. English Translation of Hindi Documents in compliance of
Hon'ble Tribunal order.

2. E.T. of Annex.A/3.

1.

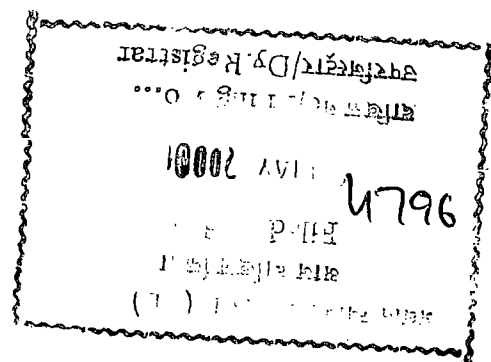
3.E.T. of Annex.A/4.

2-3 4-5

through counsel:

Applicant.

(Yogesh Sharma) Advocate
CAT Bar Room, Faridkot house,
New Delhi.



Note : In this case nothin have
note be issued

1 21

Indian Postal Department.

To.

Lalit Kr, L-32, Budh Vihar,,
Delhi-110041 .

No.ASP III/ED/R/III/98 dt. 25.1.99.

Subject: For Extra Department Agent.

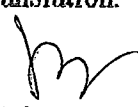
Sir,

Your name has been sponsored by the employment exchange as a candidate for the post of Extra Department Agent. Therefore, you are requested to appear before the undersigned on the given address on 4.2.99 at 11.00 AM along with all the original certificate, caste certificate. In case you will not appear on that date it will be presumed that your are not interested for the post of Extra Department Agent.

sds/-----

Asstt. Supdt. Post office,
Delhi North Division,
Rohini, Delhi-110085.

True English Translation.


Advocate.

Office
219120

RL-827

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Astt. S. Supdt.,
Rohini, Delhi 85
Division-III

Sir,

It is prayed that I was engaged as ED packer in Jan, 97 in Post office,
Sultanpuri, F Block. Since 97, I am substitute, Till date I have not been regularised.
It is prayed kindly appoint me in Sultanpuri Post office, F Block.

Applincat.

sd/--Lalit Kumar

Dated 16.11.98.

The Bylin Trust,
1

3 23
Date 19.2.1999

To

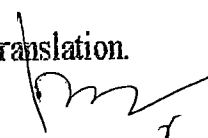
ASS Director(Staff)
Delhi Circle
New Delhi Megdoot Bhawan.

Sir,

It is prayed that I Lalit Kumar was appointed on 1.1.1997 as Substitute ED Packer , But till date my permanent order has not been issued. My name was sponsored by the Employment Exchange and I was appeared in interview but till date I have not been appointed. I have not done any wrong as my juniors are being regularised. Therefore , It is prayed kindly appointed me on the post of ED

Applicant.

Lalit Kumar,
Post office Sultanpuri F Block,
Delhi 110041.

True English Translation.


BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A. NO. 480/2000

In re:-

Lalit Kumar

Versus

Union of India & Ors.

I N D E X

S.No.	Particulars	Pages
1.	Counter affidavit	1 to 7
2.	Annex R-1 & R-II	8 - 9
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4.		

Delhi

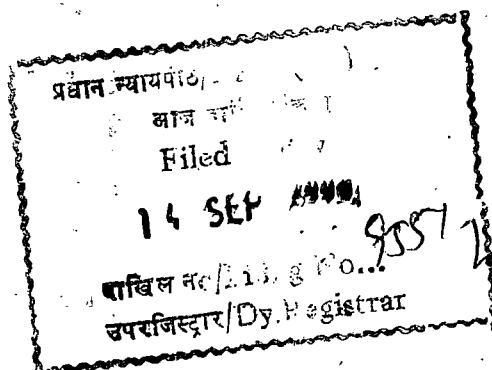
Respondents

Dated: 11.9.2000

Through:

(J.B. MUDGIL)

Addl. Standing Counsel
U.O.I.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A.NO 480/2000

IN THE MATTER OF

Lalit Kumar

Applicant

Versus

Union of India and Others

Respondents

COUNTER REPLY ON BEHALF OF THE RESPONDENTS

TO THE OA NO-480/2000

RESPECTFULLY SHOWETH:

Before giving the reply on merits, the Respondents crave leave of the Hon'ble Tribunal to place the brief facts of the case, which are as follows:-

1. That the Applicant Shri Lalit Kumar was provisionally engaged as ED Packer at Nagloi Post Office with effect from 1.1.97 in a stop gap arrangement due to abrupt absence of the regular incumbent, Shri Bijender Singh and on 2.6.97, he was deployed as ED Packer provisionally at Sultanpuri 'F' Block Post Office in the exigency of the Post Office work due to sudden murder of Shri Kirti Narain, Provisional ED Packer of 'F' Block, Sultanpuri Post Office by robbers. Smt. Girja Devi wife of late Shri Shiv Dayal was appointed as ED Packer at Sultanpuri 'F' Block Post Office on 21.5.99 A/N purely on compassionate

grounds in relaxation of EDA's recruitment rules terminating the gap-over-arrangement of Shri Lalit Kumar Applicant. As such, the Applicant had worked as Provisional ED Packer from 1.1.97 to 1.6.97 at Nangloi Post Office and from 2.6.97 to 21.5.99 at Post Office 'F' Block Sultanpuri. The ASPO's Sub-Dn. (Respondent No.4) initiated action to fill up the vacant post of EDA's including that of ED Packer Sultanpuri 'B' Block Post Office by notifying the vacancies to the Exchange and calling applications from Open Market as well as vide letter No.ASP-III/EDA-Apptt/98-99 dated 21/27.10.98 in accordance with the EDA's Recruitment Rules read with DG (P) letter No.19-4/97-ED (Try) dated 19.8.98. A list containing names of 26 candidates of twenty six candidates was received against one post of ED Packer Sultanpuri 'B' Block PO out of which seventeen candidates including the applicant Lalit Kumar sent in their applications and four candidates responded to the open public notice. After considering the names of all the twenty-one candidates including that the applicant Shri Hari Prakash with 52.66 % marks in Matriculation Examination was approved/selected by the ASPO's Sub Dn. in view of the instructions contained in CPMG New Delhi letter No.R&E/R-I/EDA/R/IV dated 20.3.98 and 16.12.98. Shri Hari Prakash had since been given appointment as ED Packer Sultanpuri 'B' Block PO with effect from 26.5.99 after completion of Pre-appointment formalities. Thus the applicant's name was considered while making regular arrangement in the appointment of EDA at Sultanpuri 'B' Block

PARAWISE COMMENTS:

1. Provisional service of the applicant was dispensed with consequent upon appointment of a regular incumbent on the post of ED Packer Sultanpuri 'F' Block Post Office with effect from 21.5.99. As the applicant Lalit Kumar was not on regular EDA and had not completed three years continuous approved service as on 21.5.99, his name was not included as envisaged in DG (P&T) letter No. 43-34/77-Pen dated 18.5.79. No Notice was required to be served on the prov. EDA under EDA's (Conduct & Service) Rules 1964.
2. Jurisdiction of this Hon'ble Tribunal is not denied.
3. It is submitted that the OA is time barred, hence be dismissed.
4. That in reply to para 4 it is submitted that the date of birth of the applicant as mentioned in the application is 12.4.1977, the respondent has no knowledge that the applicant could not continue his studies due to poverty. It is submitted that the applicant was engaged as ED Packer provisionally in a gap-over-arrangement at the risk and responsibility of Shri Krishan Kumar, EDMC, Nizampur EDBO, Delhi-110081 w.e.f. 1.1.97 due to abrupt absence of Shri Bijender Singh regular ED packer of Nangli PO, Block as ED packer provisionally on 2.6.97 due to murder of Shri Kirti Narain, provisional ED Packer of Sultanpuri 'F' Block PO by robbers.

It is wrong and denied being incorrect as

indicated in preceeding paras. Copy of Order No. B-7/Lalit Kumar/96-97 dated 15.1.1997 issued by ASPOs sub Division respondent no. 4 and order B-7/Lalit Kumar/97-98 dated 2.6.97 are enclosed since the applicant were working in a gap over arrangement provisionally, no action was required to be taken on his representation dt. 16.11.98.

It is correct that eleven post of EDAS was notified to Employment Exchange vide ASPO's. IIIrd Sub Dn. Delhi North, letter no. ASP-III/EDA-Apptt/98-99 dt. 27.10.97, simultaneously calling applications from open market. Name of the applicant was sponsored by the exchange ~~Subj's~~ name of the applicant was also considered but he could not be accommodated as selection was made on the basis of merits of marks in the matriculation examination. No weightage was given to the applicant for his past work as EDAS for recruitment rules do not provide such weightage and candidature with higher percentage of marks was given appointment w.e.f. 26.5.99.

It is submitted that as indicated in para (1) the provisional temporary arrangement of the applicant discontinued consequent upon making of regular arrangement, of Smt. Girja Devi on companssionate grounds on 21.5.99. No notice & etc was required to be served to the applicant, under the rules.

It is submitted that as indicated in para supra the applicant was working & in a gap over ^{no} arrangement provisionally, /notice etc was to be

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issued to the applicant. There are no instructions regarding regularisation of provisionally appointed EDA's without following entire procedure for apptt. of EDAs on regular basis. The contention of the applicant that his juniors to him are still working is not correct because no seniority list in respect of substitute/provisional EDAs is to be ^{maintained} ~~mentioned~~. Seniority list is maintained in respect of regular EDA's only.

It is submitted that as indicated earlier no provision exist in the rules for recruitment of EDAs (conduct & Service) Rules, 1964 that weightage is to be given for the service rendered in substitute provisional capacity. As such, the allegations made by the applicant are not correct hence denied.

It is submitted that the position in this regard has already been made in preceeding paras. No seniority list is maintained in respect of provi/ substitute EDA's No action was required to be taken on his presentation. His name was considered while making regular arrangement at Sultanpuri 'B' Block PO. The allegations made by the applicant are misconceived frivolous and incorrece hence denied.

GRUNDS

5(a) That the para no. 5(a) as mentioned ground is incorrect hence denied. ~~xx~~ The EDA's are recruited and governed vide EDA's (Conduct & Service) Rules, 1964. It is not known whether this fact was brought to this notice, Hon'ble CAT Cuttack bench. The rules

Do

...6..

do not provide that the person who has completed 240 days in two consecutive years are to be appointed as EDA. The relevant rules provide that a person who has completed continuous three years approved service is to be considered for regularisation. Hence the judgment cited by the applicant is not applicable to this case.

5(b) It is submitted that the applicant never worked as full time or part time casual labour in the department therefore the applicant can not claim so. The provisions of DG (Post) letter no. 17-14/88-EDC & Trg. dated 6.6.88 are not applicable to his case. The allegations made by the applicant is false and misconceived.

5(c) It is submitted that on one hand the applicant is claiming benefit as regularisation of his service under EDA's (Conduct's service) Rules 1964 on the other hand the applicant has claimed regularisation of his service in ID Act. The provisions of ID Act are not applicable in this case. If the applicant claims benefit in ID Act, he should have preferred his application/ case before the competent Tribunal i.e. CGI-II cum Labour Court. Provisions of ID Act are not applicable to the Deptt. of Posts as it is not an industrial as held by the Hon'ble Supreme Court of India in Civil Appeal no. 3385/86 of arising out of SLP(C) no. 507-588 of 1992.

5(d) It is submitted that the facts of the case *Shri Sharim Sarjerao Akromshete Vs. U.O.I.* are not

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applicable. As an above CAT Principal Bench in OA 2262/99 is a Landmark judgment in these circumstances.

5(e) . It is submitted that the position has been made clear in para supra. No weightage is to be given as per existing rules for recruitment of EDAs. Accordingly no weightage was given to the applicant.

6. that the para no. 6 is a matter of record hence need no comment.

7. That it is submitted that the respondent has no knowledge of the filing of any case.

8. It is respectfully prayed that this Hon'ble tribunal that the applicant is not entitled for any relief so the OA of the applicant may kindly be dismissed .

9. That the para no. 9 require no comments.

10. to 12. That the para s no. 10 to 12 need no comments.

Delhi

Dated: 11.9.2000

Through:

RESPONDENTS No. 1 to 4
Sr. Supdt. of Post Office's
Delhi North Dn., Delhi-110054.

(G.B. MUDGIL)

Addl. Standing Counsel
U.O.I.

VERIFICATION

I,

the paras no. 1 to 12 of the counter affidavit are true and correct as per record derived from the office of the respondents.

Sr. Supdt. of Post Office's
RESPONDENTS No. 1 to 4
Delhi North Dn., Delhi-110054.

To Mr. P. N. Singh
M.D. Delhi North Division
Delhi (N.D.)

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B7/Lalit Kumar/9657

Delhi-110054

del 15/11/97

As Shri Bijendra Singh E.D. P.K. Nagar
P. Dhamdham is absented from duty -
Shri Lalit Kumar s/o Shri Karan Singh
Substitute was promoted against him
W.E.F. 1/11/97 F/N. Till further arrangements

The beyond allowances against Mr. Lalit
Kumar may please be shown in favour
of Shri Lalit Kumar substitute E.D. P.K.
W.E.F. 1/11/97 F/N.

[Signature]
Joint Secy. to Govt.
Delhi North Division
Delhi-110054

Copy to
The Post Master Ashok Kumar H.C. Branch
Delhi-110052

[Signature]
Sr. Supdt. of Post Office's
Delhi North Dn. Delhi-110054.

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2-15

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Post Office of Post Office
Delhi North Dn. Delhi-110054.
Delhi P.O. Delhi-110054.

1371 Lalit Kumar/97-98 Delhi 110085 dt 2/6/97

Shri Lalit Kumar S/o Sri Karan Singh
was engaged as Subordinate ED PWR in
Sri Rajendra ED PWR Nangla P. District
on 15/6/97.

Now Sri Lalit Kumar was again engaged
as E.D. PWR Subordinate in Sultanpur F
Block P.O. Delhi 110041 w.e.f 2/6/97 since
Sri Jasbir Singh PWR was promoted
Group D (and Subordinate Sri Kishore
was engaged where he was engaged in
in office in Rakhya meidant).

Sri Lalit Kumar E.D. PWR Subordinate will
have his pay and allowance again in
vacant post of Jasbir Singh E.D. PWR
Sultanpur F Block P.O. w.e.f 2/6/97 is
Till further orders.

Post Office of Post Office
Delhi North Dn. Delhi-110054.
Delhi P.O. Delhi-110054.

Copy to

- (1) Gen Post-master Ashok Kumar Delhi:
- (11) official
- 114 of copy

Namur

Signature

Sr. Supdt. of Post Office's
Delhi North Dn., Delhi-110054.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

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IN THE MATTER OF:

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.....Respondents.

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SR.NO. PARTICULARS OF DOCUMENTS

PAGE NO.

1. Rejoinder on behalf of applicant.

1-3

through counsel:

Applicant.

(Yogesh Sharma)

Advocate

CAT Bar Room, Farikot house,
New Delhi.

T.No./5084157.

प्रधान न्यायाधीश/CAI (P.B)
मात्र दाखिल किया
प्रति 17/11/2000

17 NOV 2000

दाखिल नं./T.No. - 0.1157
उपरजिस्ट्रार/Dy.Registrar

Present copy
dt. 17/11/2000
Fair Muralidhar

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI
O. A. NO. 480/2000

IN THE MATTER OF :

Lalit Kumar

-----APPLICANT

VERSUS

UOI & Ors.

-----RESPONDENTS

REJOINDER ON BEHALF OF APPLICANT.

MOST RESPECTFULLY SHOWETH :

Para wise reply of the Brief facts :

1-2: Paras No.1 and 2 of the brief facts of the counter are wrong as stated and hence same are denied. In reply it is submitted that the applicant was engaged w.e.f.01.1.97 against a regular vacant post through the employment Exchange and has been terminated w.e.f. 1.6.1999, by way of replacing the fresh persons without given any preference to the applicant . Otherwise, also the applicant completed 240 days in two consecutive years and therefore in the light of law laid down by the Hon'ble Cuttack Bench (Annexed) the applicant is entitled for his regularisation.

It is important to mentioned here that the applicant worked against the regular posts for more than 2 and half years continously and therefore the applicant is better footings than the casual labour and as per the letter dt.6.6.1988, casual labour, part time casual labour, ED employiyees and Non-test category are entitled for preference right over the fresh persons to the appointment of ED Agent. But the respondents not considered the caseof the applicant by way giving preference over

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freshers. which is illegal in the eyes of law.

Parawise Reply :

1. Para No.1 of the counter is wrong as stated and hence same is denied. A detailed reply has been given in the above paras. Para No.1 of the OA is correct and same is reiterated here again.

2: Needs no reply.

3. Para No.3 of the counter is wrong as stated and hence same is denied. Paras No.3 of the OA is correct and same is reiterated here again.

4.: Para No.4. of the counter are wrong as stated and hence same are denied. In reply it is submitted that the applicant was appointed against the regular posts and subsequently transferred against the regular posts and was appointed through the employment exchange after conducting the interview and other formalities on 01.1.97 and worked upto till his verbal termination w.e.f.1.6.99. It is submitted that the instruction of the year 1979 stated by the applicant that three years service are required for regularisation has been subsequently amended by 240 days in two consecutive years which is clear from the Hon'ble Tribunal judgements and therefore the action of the respondents is totally illegal and discriminatory. Paras No.4.1. to 4.9. of the main OA are correct and same are reiterated here again.

5. Paras No.5 of the counter is wrong as stated and hence same is denied. It is submitted that matter will be argue at the time of hearing of the case.

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Paras No. 5 of the OA is correct and same is reiterated here again.

6-7: Needs no reply.

8-9: Paras No.8 and 9 of the counter are wrong as stated and hence same are denied. Paras No.8 and 9 of the OA are correct and same are reiterated here again.

It is, therefore, respectfully prayed that the Hon'ble Tribunal may graciously be pleased to pass an order of allowing the OA of the applicants with costs of litigation.

lalit kumar

Verification :

I, the abovenamed applicant do hereby verify that the content of above paras are true to the best of my knowlede and that I have not supressed any material facts.

lalit kumar

N. Bellu

17/11/20

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