

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

Presented by: Sh. Yogesh Sharma Diary No. 243222
Date of Presentation: 24-3-2022

Applicant(s): Salil Kumar Group: Casual labor

Respondent(s): Min. of India

Nature of grievance: Termination

No. of Applicants: One

No. of Respondents: One

CLASSIFICATION

Subject: Termination (24) No. (28)

Department: Co (No.)

* If S.B.

1. Is the application is in the proper form? (PROFORMA/COMPILED) Yes

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) Yes

(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

01-480/2000

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

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 envelops (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 after the 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;

(a) Item Nos. 7, 10, 11, 18
(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 _____

Re: Sir, Object & remd

70. There is no impugned order in this case
11. claim page 14 & 15 replaced by fair copies
18. This is a single Bench Matter

SD/Pr

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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3. Annex..A-2:order dt. 31.5.97

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4. Annex.A-3:order dt.25.1.99.

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5. Annex.A-4.Representations(colly).

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6. Annex.A-5. Judgement.

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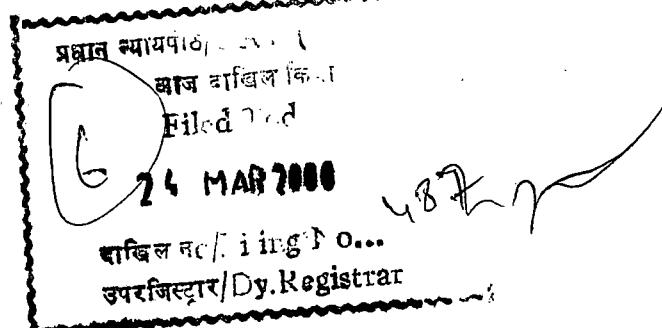
7. Annex.A-6. Instructions

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.1960....OF 2000.

IN THE MATTER OF :

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

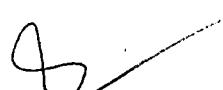
Versus

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



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 prefernce 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.

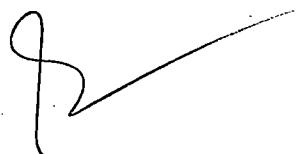
4. FACTS OF THE CASE :

That facts of the case are as under :

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.

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 applicant was transferred from Post office Nangaloi to Post office Sultanpuri F' Block in the year 1997 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 department 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 initially engaged against a vacant regular post and subsequently transferred also against a vacant regular post as Substitute. 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.DPacker on which the applicant was working since long but the respondents without consdring the caseof tge 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.

Complaint



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.

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 continuously and without given any preference and weightage which is illegal and violates Art. 14 and 16 of the constitution 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 rules and therefore the

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."



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 fo India & others reported in 1994(1) ATJ 478.

d) Because, it is well settled principle of law laid down by the Hon'ble Divisn 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

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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.

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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

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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: 29 063.566
(ii) Date of issuing: 21/3/200
(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 relied on legal advice and that I have not suppressed any



Lalit Kumar

कार्य/क्रम-7

By hand

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

Sir Laiet Kumar

FO Pkr (Subsidiary)

along with Dkashay

Re/ Laiet Kumar (9798) 3/378

Sub:- Change duty on his request

by Sir Laiet Kumar ED Pkr

Subsidiary

You are here by decided
to repair of M. S. Hallan for
Bazar PO Denshawat W.E 2/5/87

Laiet Kumar
Bazar
Nandy

CR

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Hand

एक्सो जी ०६१ भारतीय डाक-तार विभाग
A.C.G.-61 INDIAN POSTES AND TELEGRAPH DEPARTMENT
(विभिन्न नियम २६७, डाक-तार विभाग नियम पुस्तक, खण्ड १ द्वितीय संस्करण)
(See Rule 267, Post & Telegraph Departmental Handbook, Volume 1 Second Edition)
चार्ज की वस्त्रों पर चार्ज रिसेप्ट और नदो और टिकटों को रसाद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of

चाज (नाम) को (नाम) को
was made over by (name) to (name)

(नाम) को (नाम) स्थान at (place) *Smith Street, B, 80*
to (name) at (place) *Darjeeling*

तारीख को — मे पूर्व हि
प्रपराह्न

on the (date) २१६/१९१७ fore noon in accordance with
after *Regd. Post Boxes*
W.W. B) २६८ (C) २६८

सं. No. तारीख Dated

भारमुक्त अधिकारी
Supt. Officer

भारतीय अधिकारी
Supt. Officer

(कॉण्टूनिंग (P.T.O.))

CTC

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गांधीजी डॉक्टर बाबू

(160)

सेवा के

dalit kr L-32 Budh vihar
Delhi 110041

पत्रांक: - AS ३३३३ दिनांक १८ अक्टूबर १९९८

विषय: - आतिरिक्त विआवाद रेडियो एड

महादेव

आपको नाम रोबिंगार कार्यालय रे
आतिरिक्त विआवाद रेडियो एड के
चयन हेतु प्रसारित किया है। अतः आप से
निवेदन है कि दिनांक ५/१०/१९९९ को
आपके समर्त मूल प्रगति पत्र, जारी प्रकाश पत्र
यहाँ भेज दें क्योंकि साथी अन्वेषकों के समझ
निभालिखित पत्र पर उपस्थित होकर को कहा
करें। आप को निरचारित तिथि पर उपस्थित जानेन
पर यह समझा जायेगा कि आप आतिरिक्त विआवाद
रेडियो के लिए इच्छुक नहीं हैं।

@and

सदाचाल अधिकारी डॉक्टर
रेडियो लारी टीवी मुख्यमन्त्री
रोडीपुरी दिल्ली - ११००८५

CTC

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कायात्रिय उपर्युक्त विवरण निम्नानुसार दिये गये हैं।

दिनांक: 21.01.2011

M-528

34402 डॉ विजय कुमार
राज्यविद्यालय
दृष्टिभूमि पुस्तकालय
पुस्तकालय पुस्तकालय

410-2892

जनवरी ७७ में P. Packets द्वारा दिया गया

ଫଳାକ କିମ୍ବା କାନ୍ଦାର ମାତ୍ରାରେ କାନ୍ଦାରରେ

અન્નદી 974 હોલ્ડ કોર્પ્સ સિન્ક્રિપ્શન

आप से अलारी है एकियुक्ती SULTANPUR/F

Block i D Pack Selection

219 9/14/1986
Pak/col 16/11/98 Lalit Kumar

GR

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ASS Director (staff)

Deldhi Circle

New Delhi meydat

B. Brown

दीपाली

निष्ठा है जो कि लिलित अमार जनकी

1997 से (Subsidiary ED) Packer को कहे
दर गवर्नर नियमो का गया था लेकिन अपने तक मर
प्रमाणित अम्भा नहीं कहे हैं। रोजगार का दिन
देरा नाम की अपने जैन दूसरे अम्भा
लेकिन मुझे अपने की नहीं लगता तो यह
कौन भी जान सकता है कि यह क्या है।
जो कि मैंने ये प्रमाणित कर लिया जा रहा है
यहाँ भी अपने अनुरोध हो रहा है कि मुझे ED
दर लगानी चाही जाएगी।

स्त्री की जीवन स्थिति क्या है?



Flag 2

लौलिता बाबू

Post office सुलदानपुरी F.B.
ललितपुरी (लखनऊ)

etc

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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. Latif popularly known 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 Kuamr/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 S/o 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 without 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 regularization of my service against the post of ED Packer vide application dated 19-2-1999 but all in vain.

Contd....P/2

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 interview 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 more than 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.

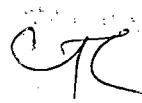
Thanking you,

Yours Faithfully,

Dated :

Copy to : Sh. Roop Chand Johar, AS PO's Delhi North IIIrd Sub. Dn. Delhi-85

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



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 a 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. The learned respondents to whom OA was allowed, stated that a chart containing the number of days on which they worked 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. 2 is concerned, he 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 a 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.

CTC

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

CR
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20
I
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.NO. 480 of 2000

IN THE MATTER OF:

Lalit Kumar.....Applicants.

Versus

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

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

4-5

through counsel:

Applicant.


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

Note : In this case neither have
note been issued

10001 MAY 2000
CAT Bar Room, Faridkot house
New Delhi, India

4796
P.D.
FILE NUMBER
(7) 10001
CAT Bar Room, Faridkot house
New Delhi, India

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.

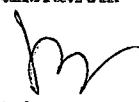
Sir,

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 you 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

Asst. 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.

Applinat.

sd/- Lalit Kumar

Dated 16.11.98.

The Gyan Trust,
Lalit Kumar

3
23
Date 19.2.1999

To

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

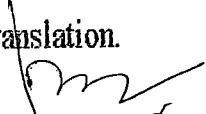
Sir,

It is prayed that I Lalit Kumar was appointed on 1.1.1997 as Subsิตute 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.

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Delhi

Respondents

Dated: 11.9.2000

Through:

100

(J. B. MUDGIL)

Addl. Standing Counsel
U.O.I.

प्रधान स्वायपंडि - १
आज दिन - १५ अक्टूबर १९८५
Filed १५ अक्टूबर १९८५
14 SET 1985
राखिल नं/113, ग. P.O...
चंपरजिस्ट्रार/Dy. Registrar

23
V
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:-

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

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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 'R' Block Sultanpuri. The ASPO's Sub-Div. (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-App/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-Div. in view of the instructions contained in CPMG New Delhi letter No. RRE/R-I/EDA/R/TY 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-Per 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 CA 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.

JK
It is wrong and denied being incorrect as

indicated in preceding paras. Copy of Order No. B-7/Lalit Kumar/96-97 dated 15.1.1997 issued by ASPG's sub Division respondent no. 4 and order B-7/Lalit Kumar/97-98 dated 26.97 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 ASPG's. IIIrd Sub Dn. Delhi North, letter no. ASP-III/EDA-App/98-99 dt. 27.10.97, simultaneously calling applications from open market. Name of the applicant was sponsored by the exchange & ~~whose~~ 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 candidate 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 compassionate 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~~ in a gap over arrangement provisionally, ^{no} 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 preceding 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 P0. The allegations made by the applicant are misconceived frivolous and incorreced hence denied.

GROUNDS

5(a) That the para no. 5(a) as mentioned ground is incorrect hence denied. It 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 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 regularization. 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 regularization of his service under EDA's (Conduct's service) Rules 1964 on the other hand the applicant has claimed regularization 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

applicable. No. 6 in 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

RESPONDENTS NO. 1 to 4
Sr. Supdt. of Post Office's

Dated: 11.9.2000 Through: Delhi North Dn., Delhi-110054.

De
(G.B. MUDGIL)

Addl. Standing Counsel
U.O.I.

VERIFICATION

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

For

Sr. Supdt. of Post Office's
Delhi RESPONDENTS NO. 1 to 4

10/11/1965
M.D. Sub. D. Section P.
Delhi (D.S.)

39

B7/ Lakh Kuan/ 965)

Dehli 110054

02/11/1965).

As Shri Brijendra Singh ED P.M. New Jersey
P- Dilkusha is absented from duty -

Shri Lakh Kuan & Shri Kartar Singh
Substanti was promoted against him
w.EF 1/11/65 F/N till further arrangement

The day and otherwise agrees to send
Past may please be advised in form
of Shri Lakh Kuan Substanti ED P.M.
w.EF 1/11/65 F/N.

Acting
Delhi 110054
Replies to be made

Copy to
The Post Master Amane Utho A/c Branch

Dehli 110054

Ans

Attested
Sr. Supdt. of Post Office's
Delhi North Dc. Delhi-110054.

%

2-15

33/8

Mr. Supdt. of Post Office
Delhi-110054
Babuji (D) Delhi-110054

B7/ Locket Kumar/97-98 Desh/10085- dt 2/6/97

Shri. Locket Kumar & Co Sanchari Sangit
was engaged as Substituted ED P.M. in
Shri. Bijender ED P.M. Nangloi P.M. Associate
on 15/1/97.

Now Shri. Locket Kumar was again engaged
as ED. P.M. Substituted in Sultanpur F
Branch Po Delhi-110054, w.E.F 2/6/97 were
Shri. Jasdev Singh P.M. was promoted to
Group D (and Substituted Shri. Kishan
was engaged were he was engaged in
an office in Rokhri (neighbour).

Shri. Locket Kumar ED P.M. Substituted with
show his pay and allowance against in-
vacant post of Shri. Jasdev Singh ED P.M.
Sultanpur F Branch Po w.E.F 2/6/97.
Till further orders.

Mr. Supdt.
Delhi-110054
Babuji (D) Delhi-110054

Copy 5

(i) give last month Ashak with the detail:
(ii) official
(iii) of copy

Ans.

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

11/11/2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.No.480/2000

IN THE MATTER OF:

Lalit KumarApplicant.
Versus
Union of India & Others.Respondents.

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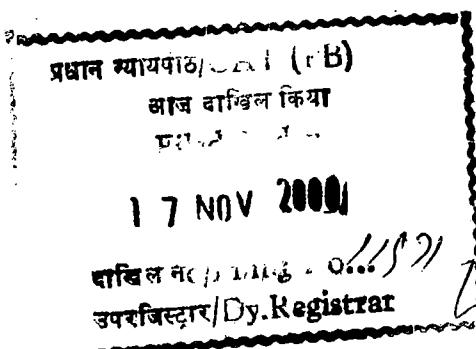
<u>SR.NO.</u>	<u>PARTICULARS OF DOCUMENTS</u>	<u>PAGE NO.</u>
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through counsel:Applicant.


(Yogesh Sharma)
Advocate
CAT Bar Room, Farikot house,
New Delhi.
T.No./5084157.

*Received copy
M.T. (11/11/2000)
Farukh Mughal*



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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

UOI & Ors.

VERSUS

-----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 continuously 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 employees 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.

Valit Kumar

Verification :

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

Valit Kumar

N. Delhi

17/11/2022

S