

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 611/90  
T.A. No.

199

DATE OF DECISION 17.5.1991

Shri Tej Pal	<del>Petitioner</del> Applicant
Shri Sant Lal	Advocate for the <del>Petitioner(s)</del> Applicant
Versus Supdt., R.M.S.	Respondent
Shri K.C. Mittal	Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? */no*
4. Whether it needs to be circulated to other Benches of the Tribunal? */no*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as Extra Departmental Mailman, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To set aside the impugned orders dated 30.6.1989 and 30.3.1990;
- (ii) to declare the termination of the applicant on 30.6.1989 as illegal, and that he continued to be in service without any break for all purposes;

- (iii) to restrain the respondents from terminating the services of the applicant; and
- (iv) to grant consequential benefits of full back wages for the period from 1.7.1989 to 14.2.1990.

2. The application was admitted on 9.4.1990 when an interim order was passed restraining the respondents from terminating the services of the applicant and appointing any other person in his place. The interim order has been continued thereafter till the case was finally heard on 2.5.1991 and judgement was reserved.

3. The facts of the case in brief are as under. The applicant was appointed as Extra Departmental Mailman in Faridabad Sorting Office against a vacant post w.e.f. 7.6.1988. On 30.6.1989, the respondents issued the impugned order terminating his services w.e.f. 30.6.1989 without assigning any reason. After considering the representation made by him, the respondents reinstated him in service w.e.f. 15.2.1990. This was in the nature of a provisional appointment. It was stated in the order dated 19.2.1990 that his appointment would be purely provisional and would be terminated at any time without assigning any reasons.

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4. The applicant has alleged that on 12.1.1990 the respondents held an interview and selected one, Shri Sunder Lal, for appointment as E.D.A. in Faridabad.

5. The respondents have stated in their counter-affidavit that the temporary appointment of the applicant was terminated due to the absence of his sponsorship from Employment Exchange, which is an essential formality to provide regular appointment to an E.D.A., as per the departmental rules. According to them, a person who has been provisionally appointed, cannot also be considered for regular appointment in the absence of any sponsorship from Employment Exchange.

6. We have carefully gone through the records of the case and have considered the rival contentions. The Supreme Court has held in Union of India Vs. N. Hargopal & Others, 1988 (1) SLR, 5 that the administrative instructions issued by the Government are only directory and not mandatory for statutory bodies in regard to the making of appointments of persons from among candidates sponsored by the Employment Exchanges. Termination of the services on the technical ground that the name of the applicant had not been sponsored by the Employment Exchange, is not legally sustainable (vide Swami Nath

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Sharma and Another Vs. Union of India & Others, A.T.R. 1988 (1), 84 - See also V. Antony Selvaraj Vs. Union of India & Another, 1991 (1) CSJ (CAT) 102; T.S. Sadashivaiah & Others Vs. the Secretary to the Govt. of India & Others, A.T.R. 1989 (1) C.A.T. 172; and P.G. Sasidharan Nair Vs. Union of India & Others, 1990 (2) ATLT (CAT) (SN) 18).

7. In our view, the mere fact that the applicant was not sponsored by the Employment Exchange, would not render him ineligible for appointment as Extra Departmental Mailman. We, therefore, partly allow the application <sup>and dispose it of as</sup> with the following orders and directions:-

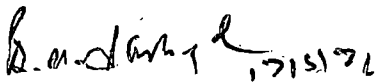
- (i) the impugned order dated 30.6.1989, whereby the respondents terminated the services of the applicant w.e.f. 30.6.1989 (AN), is hereby set aside and quashed. We also set aside the impugned memorandum dated 19.2.1990, whereby the applicant was appointed afresh on purely provisional basis. The applicant shall be deemed to be in continuous service from the date of his initial appointment as Extra Departmental Mailman w.e.f. 7.6.1988;

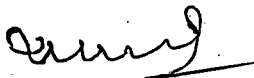
(12)

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- (ii) the applicant would be entitled to full back wages for the period from 1.7.1988 to 14.2.1990; and
- (iii) the respondents shall comply with the above directions <sup>or</sup> ~~and orders~~ within a period of two months from the date of receipt of this order.

8. The interim order passed on 9.4.1990, is hereby made absolute. There will be no order as to costs.

  
(B.N. Dhoundiyal)  
Administrative Member

  
(P.K. Kartha)  
Vice-Chairman(Judl.)