

Central Administrative Tribunal
Principal Bench, New Delhi

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OA NO.521/91

New Delhi: March 26th, 1995.

Hon'ble Mr S.R.Adige, Member (A)
Hon'ble Mrs Lakshmi Swaminathan, Member (J)

Abhey Singh
R/o Village Dakhora
District Rewari (Haryana)
(By Advocate: Shri V.P.Sharma)

...Applicant

Versus

Union of India

1. The Member
P&T Board
Dak Tar Bhavan
New Delhi
2. The Post Master General
Haryana Circle
Ambala
3. The Sr.Suptd of Post Offices
Gurgaon Division
Gurgaon
4. Shri Jai Parkash
BPM Village Dakhora
Rewari

...Respondents

(By Advocate: Shri N.S.Mehta)

J U D G E M E N T

Hon'ble Mr S.R.Adige, Member (A)

In this application, Shri Abhey Singh has impugned the order dated 7.2.1991 (Annexure-3) rejecting his representation dated 3.1.1991 against his removal as Extra Departmental Branch Post Master in village Dakhora.

2. The applicant's case is that he is a permanent resident of village Dakhora, District Rewari (Haryana) and belongs to a good family and has got landed property in that village. He also claims to have been registered with local employment exchange on 10.7.1989. He states that in December 1989, consequent to the promotion and

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transfer of a person who has been working as EDA-BPM in village Dakhora, that post fell vacant. He offered himself for the said post and the concerned officials, after checking all the documents and making detailed enquiries regarding his status, financial position, education, landed property and availability of accommodation, put the applicant on duty as EDA-BPM on 13.12.1989. He states that he continued to work without any complaint till 7.12.1990 when all of a sudden, ^{he} ~~he~~ was replaced by the respondent No.4 Shri Jai Parkash. He alleges that the said Jai Parkash does not reside in village Dakhora but in an another village where a separate post office exists. He concedes that the respondents called some candidates from the local employment exchange, but his grievance is that his name was not sponsored by the employment exchange. He has alleged that his replacement by the respondent No. 4 Shri Jai Parkash is illegal, arbitrary and malafide, and is, therefore, violative of articles 14 & 16 of the Constitution.

3. The respondents, in their reply, challenged the OA and contended that the previous EDA-BPM of Dakhora Shri Hans Raj was selected for the post of postman, Gurgaon and he assumed charge there on 13.12.1989/17.1.1990, and left the charge of his post of EDA-BPM provisionally to the applicant on his own responsibility. Shri Hans Raj resigned from the post of post man on 4.1.1990 and took charge as branch post master of Dakhora w.e.f. 10.1.1990 without any orders. The charge of the post of EDA-BPM Dakhora was temporarily got transferred to the applicant on 17.1.1990 by the Mail Overseer, Rewari on the spot to run the post office. He was not selected by the appropriate authority, that is, the Senior Superintendent of Post Office, Gurgaon, at the time of transfer of charge on 17.1.1990. The respondents pointed out that the applicant had also given in writing that the charge of EDA-BPM shift was given to him only for some days (Annexure-I), and had agreed to transfer the charge of EDA-BPM on demand by the department. The respondents further stated that as per relevant

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rules, appointment of EDA-BPM can be made only from names sponsored by the employment exchange and accordingly the local employment exchange was addressed in the matter for sponsoring names of suitable candidates. The employment exchange accordingly sponsored 8 candidates, out of whom the respondent No.4 Jai Parkash was selected on the basis of the criteria laid down by the government and the charge was transferred to him on 7.12.1990.

4. We heard Shri V.P.Sharma for the applicant and Shri N.S.Mehta for the respondents. We also perused materials on record and considered the matter carefully.

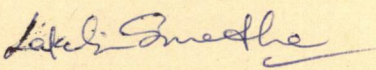
5. It is clear from the charge report signed by the applicant on 17.1.1990 (Annexure-1) that he was fully aware of the fact that the said post was being given to him for some days only, and he agreed to transfer the charge on demand by the department. Relevant rules require^{an} that selection of candidates be made from names sponsored by the employment exchange and under~~applican~~^{the} circumstances, the official respondents selected respondent No.4 from amongst the names sponsored by the employment exchange and the applicant's name was not sponsored by the employment exchange. The three official respondents namely UOI through the Member, P&T Board, The Postmaster General, Haryana Circle, Ambala and Sr. Supdt.of Post Offices, Gurgaon Division, Gurgaon cannot be at^{an} all fault^d.

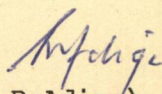
6. The applicant's counsel Shri V.P.Sharma has cited the Tribunal's decision dated 7.7.1993 in OA 65/92 Kamal Singh Vs. UOI, in support of the applicant's case, but the facts in that case are entirely different from the one before us. In that case, it was noticed that regular appointment of the applicant Kamal Singh as EDA-BPM was cancelled on the ground that respondent No. 4 Sajjan Singh had scored higher percentage of marks in the matriculation examination than Kamal Singh, and also on the ground

that no show-cause notice was issued to him (Kamal Singh) before cancellation. The present case is entirely different, because firstly the applicant Abhey Singh is not a regular appointee; secondly no question of percentage of marks scored in any examination is involved; and thirdly as the applicant Abhey Singh himself knew that the charge was being given to him for a temporary period only and he would relinquish the same on demand by the department, no separate show-cause was required.

7. Shri V.P.Sharma alleged that the respondent No.4 Jai Parkash did not possess any pucca house or property in village Dakhora and was not even a resident of that village, and undertook to produce evidence to substantiate his allegations, but inspite of sufficient time being given to him, no materials have been furnished by him in support of these allegations. In any case, we have no material to hold that the official respondents have not acted in accordance with rules in appointing the respondent No.4 Jai Parkash as EDA-BPM of Dakhora.

8. Under the circumstances, we decline to interfere in this matter. The OA fails and therefore is dismissed. No costs.


(Smt Lakshmi Swaminathan)
Member (J)


(S.R. Adige)
Member (A)

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