

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2161/2004

New Delhi this the 3rd day of August, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Shri Pappan Singh,
S/o Sh. Dhawal Singh,
R/o Village and Post Pahasu,
Distt. Bulandshahar.

..... Applicant

(through Sh. D.P. Sharma, Advocate)

Versus

1. Union of India through
Secretary,
Ministry fo Communication and I.T.
Department of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi.
2. The Postmaster General,
Agra Region-Agra.
3. The Supdt. Of Post Offices,
Bulandshahar Division.
4. The Asstt. Supdt. Post Office,
Khurja Sub Division,
Khurja(Bulandshahar).

..... Respondents

(through Sh. S.M. Arif, Advocate)

Order (Oral)

Heard the learned counsel for the parties.

2. It is trite law that a substitute, who has been appointed on a leave
vacancy or for some other reasons due to unavoidable circumstances
temporarily, has no right for regularization except to face the regular process of
recruitment etc.
3. In the above backdrop, learned counsel of the applicant states that
applicant has been appointed as GDS Runner against K.K. Sharma who had

joined elsewhere. It is stated that K.K. Sharma had not joined as JDS Runner but had joined as EDE. As such, applicant is still continuing on the post of JDS Runner and the ground for termination of the applicant is misconceived. As such, he is entitled to be continued.

4. Learned counsel has referred to a decision of Co-ordinate Bench in OA-1108/2003 (Ashok Kumar Sharma Vs. U.o.I. & Ors.) decided on 29.9.2004 to substantiate his plea. Another resort has been made to a decision of this Bench in OA-1665/2004 (Smt. Kiran Tewari Vs. U.O.I. & Ors.) decided on 18.7.2005.

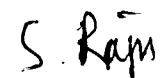
5. On the other hand, respondents' counsel vehemently opposed the contentions and stated that the initial appointment of the applicant made by ASPO was against Clauses 8 & 9 of their Memorandum dated 21.10.2002 for which, Sh. Meena, the then ASPO was placed under suspension and facing disciplinary proceedings, yet the applicant has no right to continue when K.K. Sharma, a regular incumbent has joined.

6. I have carefully considered the rival contentions of the parties. The decisions cited by the learned counsel for applicant are distinguishable to the fact that in one case the termination was made on cancellation of the appointment and was declared to be a punitive one whereas in the other case the Full Bench decision in D.M. Nagesh Vs. ASPO (FB 1997-2001 CAT FBJ 163) has been over looked. As such, treating this as per incuriam in the light of the Full Bench decision and particularly in the conditions of service and provisional orders made, applicant has no right to continue on the post and his services are liable to be terminated at any time or by appointing regular incumbent for want of punitiveness in the order. The present discontinuation of the service is on account of appointing K.K. Sharma on the post. At this stage, a controversy has arisen whether K.K. Sharma has joined as GDS Runner or not? Sh. S.C. Srivastava, Supdt. Post Offices, Bulandshahar, departmental



representative states that K.K. Sharma has joined the post as GDS Runner and is working on the aforesaid post.

7. In this view of the matter, I do not find any infirmity in the action of the respondents. However, this shall not preclude the applicant to apply in regular manner in the post, if so notified, in accordance with the rules. ~~OA is dismissed.~~
~~No Costs.~~


(Shanker Raju)
Member(J)

/vv/