

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 563 of 1997

Allahabad this the 26th day of May, 2003

QUORUM : HON. MAJ GEN KK SRIVASTAVA, A.M.
HON. MR. A.K. BHATNAGAR, J.M.

Naveen Kumar Maurya,
aged about 32 years,
S/o Sri Jagan Nath
Maurya, R/o Kahtruli
Post Kahtrauli, Phoolpur,
Distt. Allahabad.

.....Applicant.


(By Advocate : Sri R.Verma)

Versus

1. Union of India through
Director General (Post)
Dak Bhawan, New Delhi.
2. Senior Superintendent of
Post Offices, Allahabad
3. Sub-Divisional Inspector (P)
Handia, Distt.
Allahabad.
4. Sri Om Prakash Rather,
Extra Departmental Branch
Post Master, Kahtrauli,
Phoolpur, Distt. Allahabad.

.....Respondents.

(By Advocate : Sri S.K. Anwar)



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O R D E R (Oral)

BY HON. MAJ GEN KK SRIVASTAVA, MEMBER(A)


In this O.A. filed under section 19 of Administrative Tribunal Act 1985, the applicant has prayed to direct the respondent Nos 2 and 3 to enforce their orders to appoint him as E.D.D.A., Kantrauli, Phoolpur, Allahabad and he should be allowed to work on that post.

2. The facts in short are that the applicant was engaged as a substitute to work as E.D.D.A., Kantrauli Branch Post Office on 28.4.94 on the responsibility of Sri Om Prakash Rathore E.D.B.P.M., Kantrauli. The grievance of the applicant is that he is fully eligible to work on the post. Sri R. Verma learned counsel for the applicant submitted that the applicant has been working as substitute and he can be replaced only by a regularly selected candidate. So far no regular selection has been made.

3. The contention of the learned counsel for the applicant has been opposed by Shri S.K. Anwar, learned counsel for the respondents. He has submitted that the applicant was no doubt engaged as substitute E.D.D.A. on 28.4.94. He was removed once the undertaking was withdrawn in favour of the applicant. The applicant approached this Tribunal challenging the removal of the applicant from the post of E.D.D.A. The Tribunal has passed the following orders on 28.5.97 by way of interim order :

"Applicant who has been working shall not be replaced by another substitute till the next date."

Before this order was passed a regularly selected candidate was appointed on the post of E.D.D.A., therefore, the respondents engaged the applicant as substitute E.D.R. on which post he is stated to be still working. The learned counsel for the respondents has argued that in absence of any surety/undertaking the applicant is not entitled to continue as a substitute E.D.R.



The learned counsel for the applicant mentions that the undertaking in favour of the applicant of another person is still available with the respondents and the services of the applicant should not be terminated till a regularly selected candidate is available.

4. We have heard the counsel for the parties considered their submissions and perused records.

5. The services of the substitutes of the E.D.A.s in Department of posts are governed by special rules. The legal position in regard to the substitute E.D.A.s is well settled. They have a right to continue as a substitute E.D.A. till there is an undertaking by another employee of the Department who takes the responsibility. A substitute E.D.A. can be removed only in two circumstances. Firstly, either the surety/undertaking is withdrawn or else a regularly selected person is available. In the instant case, it is admitted that condition no. 2 is not satisfied i.e. no regularly selected candidate is available. As regards condition no. 1 i.e. surety/undertaking, it is disputed. On the one hand, learned counsel for the applicant mentions that the undertaking in favour of the applicant is available whereas the same is refuted by the learned counsel for the respondents.

6. In our opinion, the interest of justice shall be served if the case is remitted back to the respondents to examine this aspect of the case. In the facts and circumstances we finally dispose of this O.A. with following direction to the respondents :

- (i) The services of the applicant shall not be terminated in case, undertaking in his favour is available in the records or else a fresh undertaking has been filed by the applicant. If that be so the applicant shall be allowed to continue till the undertaking is available

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or the regularly selected candidate is available, whichever is earlier.

(ii)

In case, the applicant fails to produce any undertaking/surety in his favour, the respondents shall pass appropriate order as per rules.

7. There shall be no order as to costs.


Member (J)


Member (A)

Brijesh/-

Dated : 26th May, 2003.