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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1086 of 1997

Allahabad this the 10th day of May, 2001

Hon'ble Mr.S. Dayal, Member (A)
Hon'ble Mr.S.K.I. Naqvi, Member (J)

Udai Pratap Singh, Son of Sri Chandra Bhan Singh, resident of village Purshottampur, Post Office Bankat, District Azamgarh.

By Advocates Shri S.K. Rai
Shri J.N. Singh

Versus

1. Union of India through Secretary, Ministry of Post and Telegraph Telecom, New Delhi.
2. Sub Divisional Inspector(East) Post Office, Azamgarh.
3. Branch Post Master Shahgarh, District Azamgarh.
4. Senior Superintendent Post Offices, Azamgarh.
5. Senior Post Master, Azamgarh District Azamgarh.
6. Sri Badri Narain Pandey , Son of Late Sri Rajdeo Pandey, resident of village and Post office Raut Mau, District Azamgarh.

Respondents

By Advocate : Km.Sadhna Srivastava

O_R_D_E_R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed under
Section 19 of the Administrative Tribunals Act, 1985

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for setting aside the order dated 20/4/1997 and to direct the respondents to treat the applicant as continuing on his post of Extra Departmental Mail Peon and also pay the entire arrears of salary which are due and regularise the services of the applicant. ^A The prayer also made for direction to the respondents to decide the representation of the applicant dated 21.4.1997.

2. The claim of the applicant is that he was appointed as Extra Departmental Mail Peon after selection according to rules. The applicant claims to have worked as Packer, E.D.M.P., E.D.D.A., Chowkidar since 1980 onwards in different Post Offices namely Hafizpur, Chhattarpur, Bankat, and Kutchehry till 1991. He claims to have been appointed in 1983 and 1990. He also admits that one Shri Hardeshi Ram, E.D.M.P. was promoted and a post of E.D.M.P. Shahgarh fell vacant and the applicant was appointed and his appointment was to continue so long as the post was there and was filled up on permanent basis. It is mentioned that the respondent no.2 terminated the services of the applicant on 14.2.1991 on account of the applicant preparing his own allowances in the Month of January, 1991. It is claimed that no notice or opportunity of hearing was given. The applicant states that he had filed O.A.No.35 of 1991.

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3. In the counter-affidavit, filed by the respondents, it is stated that one Sri Badri Narain Pandey has been appointed on the post of Extra Departmental Mail Peon. Shri Nand Kishore Yadav was appointed as a stop-gap arrangement and he was not a regular incumbent. The observation the Tribunal in O.A. No.350 of 1991 is also mentioned by the applicant. The Tribunal observed that the applicant ceased to have the right of holding the said post on the appointment of Shri Badri Pandey if he had been appointed as Extra Departmental Mail Peon after following due procedure.

4. The applicant contested the averments of the respondents in the C.A. through rejoinder that Shri Badri Pandey was not appointed after following the due procedure, as wide publicity was not given of the vacancy.

5. We have heard the arguments of Shri S.K. Rai, learned counsel for the applicant and Km. Sadhna Srivastava, learned counsel for the respondents.

6. We find from annexure-1 that the charge of E.D.M.P., Chatarpur Khushal, S.O. Bankat was made over to Shri Udai Pratap Singh on the afternoon of 30.4.1983. This is not an order of appointment. Annexure -2 states that Shri Rajendra Prasad Singh erstwhile E.D.M.P. had handed over the charge to and Shri Udai Pratap Singh on his risk and responsibility, therefore, appointment of the applicant was not made on regular basis. Annexure no.3 is a similar charge

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report regarding the applicant having taken over as Chowkidar at Azamgarh Kutchehra Post Office. Annexure no.4 is the appointment letter of the applicant as Substitute E.D.M.P. in place of Shri Hardeshi Ram, who had qualified in the departmental examination and this is also not an appointment on regular basis. Thus, the applicant in mentioning that he was appointed on regular basis, has not stated the correct facts.

7. We also find from the order in O.A. No.350 of 1991 dated 24.2.1997 that the Division Bench had directed the respondents to pay salary and other allowances to the applicant as if he had not been relieved of his post and also mentioned that the applicant would cease to have the right of holding the said post on appointment of Sri Badri Pandey, if he has been appointed as Extra Departmental Mail Peon after following the due procedure and is holding the post with effect from 02.4.1991. We find from the counter-reply filed by the respondents that Shri Badri Pandey, Extra Departmental Runner was appointed on the post of Extra Departmental Mail Peon, Shahgarh after following the due procedure. Shri Badri Pandey took over the charge on the post as regular incumbent w.e.f. 02.4.1991. The applicant has contested this point and alongwith his M.A.No. 1572/00, has filed an affidavit of one Shri Surya Narain Pandey. However, this affidavit cannot be relied upon to contradict the averments made by

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the respondents that ^{Shri} ~~the~~ Badri Pandey has been appointed on regular basis.

8. In view of the above findings, we find no merit in the O.A., which is dismissed with no order as to cost.

Ranjana
Member (J)

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Member (A)

/M.M./