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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 12th DAY OF AUGUST, 1997

Original Application No. 694 of 1997

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA , MEMBER(A)

Bheem yadav, son of Shri Shiv Bachan Yadav
resident of village Bharkhera post office
Bharkhera Tehsil, Basdeeh, District Ballia

... Applicant

(By Advocate Shri K.K. Mishra)

Versus

1. Union of India through its Secretary
Department of Post, Ministry of
Communication, New Delhi
2. Superintendent of Post Offices,
Ballia district Ballia
3. The Director of Postal Services, Gorakhpur
Region, Gorakhpur.

... Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

The applicant through this OA seeks a direction to be issued to the respondents to permit/allow the applicant to continue on the post of EDDA Bharakhera district Ballia. He further seeks a direction to be issued to the respondents to regularise/absorb him in the postal department. Consequential relief for treating the applicant in continuous service and to pay him arrears of salary with consequential benefits has also been prayed for.

2. We had heard the learned counsel for the applicant when the OA came up for ~~admission~~.

3. The applicant states that he was appointed on the post of EDDA on 8.11.94 in place of one Brijendra Yadav and he continued upto 1.8.95. The applicant has further stated that he was again given appointment from 15.4.96 and he continued upto 19.9.96. The allegation of the applicant is that Brijendra Yadav in whose place he had been appointed

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did not come back and has not joined the post. The applicant's further allegation is that one Sri Hari Shanker Yadav has been given appointment on the post on which the applicant was working. Hari Shanker Yadav has not been impleaded as respondent. Thus the allegation touching his appointment are irrelevant and deserves to be ignored.

4. The applicant has not filed any appointment letter. What has been filed is only a charge report. In the absence of the appointment letter being placed on record it is difficult to hold that the applicant was given an adhoc appointment, may be he was working only as a substitute for Brijendra Yadav but what we intend to indicate is that the applicant has failed to prove any legal right to hold the post in question.

5. The learned counsel for the applicant strenuously urged that the applicant who was an adhoc appointee is sought to be replaced by another adhoc appointee and in that behalf drew our attention to certain observation in Supreme court decision in State of Haryana Vs. Piara Singh. That decision is wholly inapplicable for the reason that the applicant was not an adhoc appointee nor an adhoc appointee pending regular appointment. He has failed to prove that he is an adhoc appointee. It would be relevant to indicate that since the applicant's appointment itself has been made dehors the rules he cannot be heard to complain about his replacement by another person.

6. The learned counsel for the applicant cited a decision reported in 1989(2) UPLBEC Pg 607 Virendra Kumar Singh Vs. District Inspector of Schools district Allahabad. The said decision is wholly inapplicable. The said decision is based on the provisions of the Removal of difficulties and orders passed under the provisions of U.P. Secondary Education Service Commission(Removal of Difficulties) *bcl*

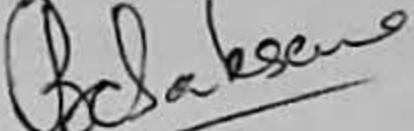
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7. Similarly, another decision cited by the learned counsel for the applicant reported in 1992 A.W.C 1733 Km. Meena Singh Vs. DIOS Jaunpur is also wholly inapplicable. That decision also considered the provisions of the aforesaid Removal of Difficulties order.

8. No other point has been urged. The OA lacks merit and is accordingly dismissed summarily.


MEMBER (A)


VICE CHAIRMAN

Dated: August 12 1997

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