

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

THIS THE 28th DAY OF MARCH, 2006

Original Application No. 711 of 1997

HON'BLE MR. K.B.S. RAJAN, MEMBER-J
HON'BLE MR. A.K. SINGH, MEMBER-A

Pramod Kumar, S/o late Hari Singh, R/o Village Sahar,
Post Office Sahar Chatari, District Bulandshahr.

.. Applicant

By Advocate : Sri V. Kumar.

Versus

1. Union of India through Secretary, Department of Posts, Dak Tar Bhawan, Parliament Street, New Delhi.
2. Superintendent of Post Offices M, Department of Posts, Bulandshahr Division, Bulandshahr.
3. Post Master General, Department of Posts, Agra Region, Agra.
4. Sub Divisional Inspector, Post Offices East Dibai, District Bulandshahr.
5. Sri D.K. Sharma, Sub Divisional Inspector Post Offices, East Dibai, District Bulandshahr.
6. Sri Anil Kumar Sharma, Substitute, Extra Departmental Mail Peon, Behlolpur, P.O. Chattari, District Bulandshahr.

.. Respondents

By Advocate : Sri S. Srivastava

O R D E R

By Hon. Mr. K.B.S. Rajan, Member (J)

Despite opportunity given to the counsel for the applicant, no written submission was made. Nevertheless, on the basis of the pleadings and the oral arguments and

taking into account the written arguments submitted by the counsel for the respondents, the case is finalized.

2. Brief facts as contained in OA.

(a) One Sri Banwari Lal the regularly appointed Extra Departmental Mail Peon in the Branch Post Office, Behlolpur was directed to work on some other posts and accordingly Sri Banwari Lal introduced the applicant to work as a Substitute in his place from the period 12.6.1993 to 18.12.1993 for a period of 170 days.

(b) Similarly for a period from 5.2.1994 to 31.12.1994 (160 days), the applicant again worked as a Substitute of Sri Banwari Lal. Thereafter for a period from 1.1.1995 to 11.8.1995 (99 days), the applicant once again was appointed as a Substitute of Sri Banwari Lal.

(c) The Sub Divisional Inspector, East Dabai, used to grant permission and approve the appointment of the Substitute EDMF as per the Director General, P&T General Circle No. 23rd and 24.2.1970 and letter dated 12.9.1988 and 14.2.1991. Sri Banwari Lal was granted promotion on the post of Postman and joined on 12.8.1995. The respondents' authorities directed the applicant to take charge from Sri Banwari Lal on 12.8.1995, the working of the applicant on the post of EDMF Behlolpur, Post Office Chattari, District Bulandshahr after 12.8.1995 shall never be deemed to be an appointment of a substitute. It was under the instructions of the Sub-Divisional Inspector, East Dibai, District Bulandshahr that the applicant was directed to function on the post

of EDMP, Behlolpur for the period from 12.8.1995 too 22.7.1996.

(d) On 22.7.1996, the service of the applicant was verbally terminated upon the directions of the SDI, East Dibai, District Bulandshahr. The applicant filed a representation dated 22.7.1996.

(e) The applicant filed an appeal dated 4.8.1996. The appeal of the applicant 4.9.1996 was rejected by the Superintendent of Post Offices by order dated 30.10.1996 (impugned).

(f) After the termination of the applicant's services one Sri Shambhu Datt Sharma, the Extra Departmental Delivery Agent working at Chattari Post Office was transferred on the post of EDMP Bahlolpur. After about six months, Sri Shambhu Datt Singh was sent back to his original place of posting at Chattari and in his place one Sri Anil Kumar Sharma has been appointed as a Substitute on the post of EDMP, Behlolpur.

(g) When Sri Banwari Lal was promoted as a Postman, the applicant was entitled to continue on the post of EDMP, Behlolpur, Post Office Chattari, District Bulandshahr till atleast regular selected candidate joins the post.

3. Respondents' version as contained in the Counter Affidavit.

(a) Sri Banwari Lal, Extra Departmental Mail Peon, Behlolpur (Chattari), District Bulandshahr was granted leave without allowances.

(b) The petitioner was engaged as a Substitute by Sri Banwari Lal on his own risk and responsibility. The Postman Debai was ordered

to officiate on the vacant post. He worked on the said post from 12.8.1995 to 30.9.1995 and he engaged Sri Pramod Kumar (Applicant) vice him as a Substitute for the aforesaid period on his own risk and responsibility. Lateron Sri Bholu Singh refused his promotion and joined on his own post of Postman and Sri Banwari lal was automatically relieved from the post of Postman. One post of Postman Debai was again vacant and Sri Banwari Lal was ordered to work as outsider Postman. He took over the charge in the afternoon of 30.9.1995 and worked upto 29.2.1996. Sri Banwari Lal engaged his brother Sri Pramod Kumar as a Substitute.

(c) Lateron Sri Banwari Lal was ordered to work as outsider Runner in leave vacancy and he worked on the said post for the period from 18.3.1996 to 9.4.1996. During the said period Sri Banwari Lal engaged his brother Sri Pramod Kumar as a Substitute.

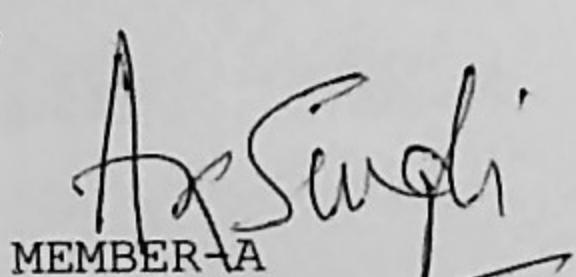
(d) The contingent Paid Chowkidar of Debai proceeded on leave and Sri Banwari Lal worked as outsider Chowkidar from 10.4.1996 to 25.4.1996. Sri Banwari Lal engaged the applicant (his brother) for the aforesaid period on his own risk and responsibility. On being relieved from the post of Contingent paid Chowkidar, Debai, Sri Banwari Lal did not join on his post i.e. Extra Departmental Mail Peon, Behlolpur and remained absent from the post. As Sri Banwari Lal did not join on his own post and absented ~~him~~ without any information and sanction of leave by the competent authority, hence the substitute engaged by Sri Banwari Lal has been terminated in the forenoon of 22.7.1996



4. The legal position is that a substitute in the E.D. organization has no vested right. His continuance or otherwise is at the risk of the regular incumbent. The respondents are fully empowered to terminate the services of the applicant. The decisions cited by the counsel for the respondents as below support the case of the respondents.

- (i) Jaswant Singh Vs. State of M.P. reported in 2002 (9) SCC 700.
- (ii) Andhra Pradesh State Road Transport Corporation Vs. C.M. Pawni Kumari reported in 2001 (10) SCC 585
- (iii) Central Air Man Selection Board Vs. Surendra Kumar Das 2003 (1) SCC 152.
- (iv) Notified Area Council Vs. Vishnu C. Bhoy reported in 2001 (10) SCC 636.
- (v) Anil Kumar Sharma Vs. State Insurance & GPF Department, reported in AIR 2002 SC 385
- (vi) Registrar Hyderabad University Vs. M.V. Shanta Kumari, reported in 2002 (9) SCC 692.
- (vii) Vinodan T. & others Vs. University of Kalikat & Others reported in 2002 (4) SCC 726.
- (viii) Dr. (Mrs) Chanchal Goel Vs. State of Rajasthan reported in 2003 (2) Supreme Today 810.
- (ix) A Uma Rani Vs. Registrar, Co-operative Society & others reported in 2004 (6) Supreme Today 143.
- (x) Pankaj Gupta & others Vs. State of Jammu & Kashmir & others reported in 2004 (6) Supreme Today 584.
- (xi) Union of India Vs. Devika Guha reported in 2000 (3) SC SLJ 132

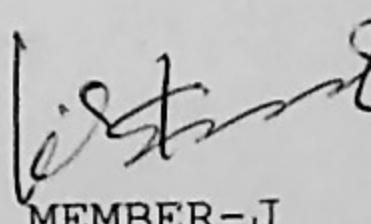
5. The OA is devoid of merits and hence rejected. No cost.



Ar Singh

MEMBER-A

GIRISH/-



Jitendra

MEMBER-J