

Reserved

Central Administrative Tribunal, Allahabad, A-D Bench,  
Allahabad.

Dated: This The Day 20<sup>th</sup> Of November, 1998  
Hon'ble Mr. S.L. Jain, J.M.

Coram: Hon'ble Mr. G. Ramakrishnan, A.M.

Original Application No.1224 of 1998

Hansraj sonof Sri Naresh Chandra  
resident of village and post Sikandrapur,  
District Farrukhabad . . . . Applicant.  
C/A Sri K.C.Sinha, Advocate.

Versus

1. Union of India through the Superintendent of  
Post Offices, Farrukhabad.
  2. Sub-Divisional Inspector (Post) Chhibramau  
(Fatehgarh Division), Farrukhabad.
- Respondents.

C/R Sri N.B.Singh, Advocate.

ORDER

By Hon'ble Mr. S.L. Jain, J.M.

This is an application under section 19 of  
the Administrative Tribunal Act 1985 to set  
aside the order dated 24.9.1998 with the direction  
that the applicant be permitted to appear in  
examination.

The applicant's case in brief is that he  
was appointed as E.D.D.A. Sikandrapur on 11.1.93  
and has worked on the said post till 26.4.1997.  
One Avdhesh Kumar challenged ~~this~~ termination,  
whose case was decided on 15.1.97, he ~~was~~ was  
reinstated hence the services of the applicant  
was terminated on 26.4.97. The applicant was  
reappointed as E.D.D.R. Tahpur on 19th May 1997.  
His services were determined vide suspension order  
dated 11.2.98. He has applied for the post

advertised by the respondents vide Annexure A-8 dated 20th July 1998. His suspension order was subject of challenge in O.A. No. 181/98 and on 24th Feb. 1998 status-quo was ordered to be maintained. The respondents vide Annexure A-1 has refused to allow the applicant for the departmental examination, hence this O.A. for the above stated relief.

The respondents have resisted the claim on the ground that the applicant does not fulfill even the essential qualification for the said post advertised by the Annexure A-8.

Perusal of Annexure A-8 suggests that a person is eligible for the said post who has completed on 1.1.98 five years satisfactory service.

The learned counsel for the applicant relied on his representation dated 26th March 1997 in which he has stated that he is in job as E.D.D.A Sikandrapur since 28.10.92. We are surprised to note that in O.A. in para 41 mentions 11.1.93 and this fact is missing in O.A. that the applicant was in job since 28.10.92 or he has ever worked earlier to 11.1.93. Thus the representation which he has filed Annexure A-4 is against the pleadings itself.

In addition to it he has filed Annexure A-2 which is the appointment order for the post of E.D.D.A Sikandrapur. No other order which suggests that he was ever appointed and worked since 28.10.92 is filed. Thus Annexure A-4 which is against the pleadings, has no basis like appointment order so is not worth belief at all.

As per allegations of the applicant himself he has worked from 11.1.93 to 26.4.97 and after a break again he has worked on 19.5.97 and onwards.

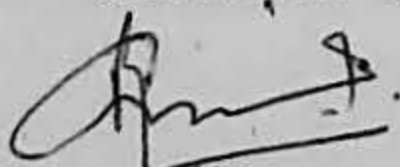
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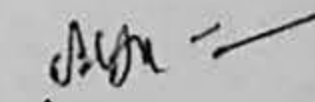


Thus even calculated the said period, he does not fulfill the essential qualification of five years ~~required~~ regular service as mentioned in Annexure A-8. Hence he is not entitled to appear in the said examination.

After suspension whether the applicant has handed over charge or not, is a matter of dispute between the parties. Suspension order is subjudice in O.A. No. 181/98 hence no opinion is expressed on the said point for the reason that the present case can be disposed of solely on the facts mentioned above and it may prejudice the case of both the parties.

In the result O.A. is liable to be dismissed and is accordingly dismissed. Applicant to bear the cost of the respondent amounting to Rs. 650/- (legal practitioner's fee Rs.500/- plus other expenses Rs.150/-) payable by the applicant to the respondents within one month of the order.

  
A.M.

  
J.M.