

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No.1509 of 2001

Allahabad this the 03rd day of April, 2003

Hon'ble Maj Gen K.K. Srivastava, Member (A)  
Hon'ble Mrs. Meera Chhibber, Member (J)

Suresh Chandra Pandey S/o Hriday Narain Pandey,  
R/o Village Pura Torai, Post Katra Gulab Singh,  
District Pratapgarh, local address 7-T/1-B, Shivpuri,  
Govindpur, Allahabad.

Applicant

By Advocate Shri Avnish Tripathi

Versus

1. Union of India through its Secretary, Department of Post, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Director Postal Services, Allahabad Region, Allahabad.
3. Senior Superintendent of Post Offices, Pratapgarh Division, Pratapgarh.
4. Sub Divisional Inspector of Post Offices, Lalganj Sub Division, District Pratapgarh.

Respondents

By Advocate Shri R.C. Joshi

O R D E R ( Oral )

By Hon'ble Mrs. Meera Chhibber, Member (J)

The grievance of the applicant in this case is that he was appointed as E.D.D.A. by the S.D.I. on 25.02.1999 after taking approval from Senior Superintendent of Post Offices on ad hoc basis as the regular E.D.D.A. had been put off duty and the other person who was asked to look after his work, has refused to join the duties.

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The applicant submitted that he was given charge on 27.02.1999, which is evident from pages 24 and 25 of the O.A. and he continued to perform his duty to the entire satisfaction of his superiors without any complaint or misconduct on his part. He was surprised when just 2 months before completion of 3 years, abruptly, one fine day his services were ordered to be terminated by saying that his appointment was irregular (page 21) by giving him one month's notice. The applicant submitted that it seems there was some representation given by Shri Rameshwar Pd. Mishra and while disposing of his representation it was observed by Director Postal Services, Allahabad that there is no rule to make ad hoc appointment, therefore, after terminating his arrangement, provisional appointment may be done after observing required formalities.

2. It is contended by the applicant's counsel that he is challenging his termination on two grounds namely that <sup>the</sup> ~~one~~ ad hoc employee cannot be replaced by another ad hoc employee, and secondly he had almost completed 3 years after his appointment and as per D.G. P & T Letter no. D.G. P&T letter no. 43-4/77-Pen, dated 18.05.79 (Swamy's Compilation of Service Rules for Postal ED Staff), which is reproduced as below:

"Efforts should be made to give alternative employment to E.D. Agents who were appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than 3 years service. In such cases their names should be included in the waiting list of E.D. Agents discharged from service, prescribed in D.G. P & T letter no. 43-4/77-Pen dated 23.02.79."

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3. In view of this rule position, applicant's counsel has submitted that even if regular appointment was to be made in that case he would have a right to be considered for the same and in case he was allowed to continue upto 3 years his name would have <sup>to be</sup> ~~in~~ kept in the waiting list and both the events he would be entitled to get preference over others.

4. The respondents counsel on the other hand submitted that since applicant's appointment was irregular and was not done after complying <sup>with</sup> ~~in~~ all the formalities which were required either for a regular appointment or for a provisional appointment, therefore, it was rightly terminated. He has also submitted that the applicant was infact engaged as a substitute, therefore, he has no right to continue on the post.

5. We have heard both the counsel and perused the pleadings as well.

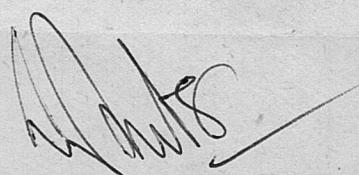
6. Annexure A-2 at page 24 shows that applicant was engaged as E.D.D.A. on ad hoc basis and it nowhere shows that he was engaged as a substitute. It is also admitted fact that Shri Jagdamba Bux Singh- regular <sup>who</sup> E.D.D.A. / was initially put off duty, was subsequently dismissed from service on conclusion of disciplinary proceedings, therefore, it is clear that the applicant was working against the vacant post of E.D.D.A. It is now also settled / that one ad hoc employee cannot be replaced by another ad hoc arrangement. The respondents have not stated that they have taken any steps for regular appointment. When the applicant approached this Court, he was

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granted stay, therefore, he was allowed to continue to perform his duty right from 25.02.99 onwards. If the authorities are of the view that his appointment was irregular in any way the best course before them would have been to <sup>to terminate his service after giving him S.C.N. and thus to</sup> initiate the process for regular appointment and till such time, regular appointment was made, applicant ought to have been continued on the said post. Reply given by the respondents also does not show as to why this irregularity could not be noticed by them for more than 2 years and why no action was taken against those who had committed this illegality. By now, applicant has completed more than 3 years service as E.D.D.A. We, therefore, dispose off this O.A with the direction to the respondents to first explore the possibility if the applicant can be given some alternative job in accordance with the rules and also to initiate the steps to fill up this post on a regular basis. It is made clear that till such time a regularly selected candidate becomes available to the respondents, the applicant should be continued on the said post. The termination order of the applicant is also set aside, in view of the facts as explained above. <sup>of</sup> No order as to costs.

  
Member (J)

|M.M. |

  
Member (A)