

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 11th day of February 2002

Original Application no. 1531 of 2001.

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Pradumn Kumar,
S/o Sri Ram Adhar,
R/o 358, Sadar Bazar,
ALLAHABAD.

... Applicant

By Adv : Sri K.K. Mishra


V E R S U S

1. Union of India, through Secretary,
Ministry of Communication,
Deptt. of Post,
NEW DELHI.
2. Post Master General, Allahabad.
3. Senior Supdt. of Post Office,
Allahabad.
4. Sub Divisional Inspector,
Post Office (North),
Allahabad.
5. Vijay Bahadur Singh,
ED SPM, Sadar Bazar, Post Office,
Allahabad.

... Respondents

By Adv : Sri R.C. Joshi

...2/-



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O R D E R

Hon'ble Maj Gen K.K. Srivastava, A.M.

In this OA filed under section 19 of the A.T. Act, 1985, the applicant has prayed that the direction be issued to respondent no. 2 to consider the appointment of the applicant as provisional Extra Departmental Sub Post Master (in short EDSPM), Sadar Bazar, Post Office till regular selection is made in accordance with rule.

2. The facts, in short, giving rise to this OA are that the applicant has been working as substitute EDSPM, Sadar Bazar since 1994. As per applicant, his elder brother Sri Janardan Prasad Yadav was a regular encumbant and as and when there was requirement or he proceeded on leave, the applicant used to work as EDSPM on the guarantee of a regular encumbant. The regular EDSPM, Sri J.P. Yadav was dismissed from service on 22.2.2001 and since then no regular selection has been made in Sadar Bazar, Post Office. The Sadar Bazar, Extra Departmental Sub Office (in short EDSO) has been shifted to function from C.D.A (P) Post Office and the applicant is being asked to work on leave vacancy basis.

3. Sri K.K. Mishra, learned counsel for the applicant submitted that shifting of the post Office to function from CDA (P) Post Office is creating a lot of hardship to the residents of the Sadar Bazar and because of shifting of the post Office the applicant is also suffering as he is not able to work continuously as EDSPM. He further contended that though on paper the EDSO, Sadar Bazar has been shifted to C.D.A. (P) Post Office, the fact is that this EDSO is not functioning at all in actual sense. The applicant

...3/-

who was working as substitute EDSPM is also not allowed to function as EDSPM on a regular basis.

4. Sri K.K. Mishra, learned counsel for the applicant submitted that the issue of shifting of the EDSO from CDA (P) Post Office, back to Sadar Bazar should be decided expeditiously to redress the grievance of the public and also the applicant should be allowed to function as EDSPM till the regular selection is made. The applicant is willing to provide suitable accommodation for Post Office.

5. Sri R.C. Joshi, learned counsel for the respondents submitted that the department never appointed the applicant as EDSPM. He was working as substitute and no legal right has accrued to him.


6. We have given due consideration to the submissions made by learned counsel for the parties and perused records. It is settled law that a substitute ED has no right to continue on ^{as ED} his post. Status of an ED of a Post Office is governed by special rules and accordingly a substitute ED can function only on guarantee of someone acceptable to authorities. In this case his elder brother who was the regular EDSPM has been dismissed and since it was only on his guarantee that the applicant was working as substitute EDSPM, the situation ^{as per} reversed. The respondents are within their legal rights not to allow the applicant to continue as EDSPM, unless there is someone acceptable to the Department to take guarantee of the applicant. Learned counsel for the applicant also prayed that there is provision for provisional appointment of ED Agents and since ^{he is} the applicant has already experience of the post Office, he should be provided with provisional appointment. In our opinion it is for the administration


to decide to give provisional appointment to the applicant or not.

7. For the above, in our opinion, the interest of justice shall be better served, if the applicant makes a representation before respondent no. 3 i.e. Senior Supdt. of Post Office, Allahabad who shall decide the said representation within stipulated time by a speaking order.

8. The OA is disposed of finally with the direction to the respondent no. 3 to decide the representation, if so filed within a week by the applicant, within four week from the date of filing of representation alongwith copy of this order.

9. There shall be no order as to costs.


Member (J)


Member (A)

/pc/