

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 29th day of OCTOBER 2003

Hon'ble Mrs. Meera Chhibber, Member (J)
Hon'ble Mr. D.R. Tiwari, Member (A).

Original Application no. 1563 of 2001

Promod Kumar Yadav, s/o Sri Ramkaran Yadav,
R/o Gram Bhaunathpatti,
P.O. Khameriya, Distt. Bhadohi.

... Applicant

By Adv : Sri D.K. Shukla

Versus

1. Union of India through its Secretary,
Ministry of Posts and Communication,
NEW DELHI.
2. Director Postal Services, Allahabad.
3. Post Master General, Allahabad.
4. Superintendent Post Offices, West Division Cantt.
Varanasi.
5. Inspector Post Offices, Gyanpur Sub-Division,
Bhadohi.
6. Satyendra Kumar Pandey, s/o late Rampyare Pandey,
R/o Gram Bhawanipur, Gopiganj,
Distt. Bhadohi.

... Respondents

By Adv : Sri R.C. Joshi & Sri A.M. Tripathi

ALONGWITH

Original Application no. 915 of 2002.

Satyendra Kumar Pandey, s/o late R.P. Pandey,
R/o Vill and PO Pakhwaiya (Gyanpur),
Distt. Varanasi.

... Applicant

By Adv : Sri O.P. Gupta

...2/-



V E R S U S

1. Sub Divisional Inspector, Post Offices,
Gyanpur Sub Divisional Varanasi.
2. Superintendent of Post Offices,
West Mandal, Varanasi.
3. Union of India through Secretary,
Ministry of Communication, Govt. of India,
New Delhi.

... Respondents

By Adv : Sri R.C. Joshi

O R D E R

By Hon. Mrs. Meera Chhibber, JM.

We are passing a common order in OA no. 1563 of 2001 and OA no. 915 of 2002.

O.A. no. 1563 of 2001

2. This OA was filed by one Sri Promod Kumar Yadav seeking direction to the respondents to permit him to work on the post of EDDA, Pakhwaya Post Office, Distt. Bhadohi and not to interfere in his working as EDDA.

3. It is submitted by the learned counsel for the applicant that the applicant was appointed as EDDA on 10.05.1999 in place of Sri Ramkaran on temporary basis. He was doing his work with sincerity and devotion, but on 24.08.1999 he was informed by Inspector of Post Offices, that his services were no longer required and without giving any show cause notice, his services were terminated. Therefore, being aggrieved he filed this OA as in his place, one Sri Satyendra Kumar Pandey was appointed by ignoring all the formalities. He gave number of representations, but no reply was given to him.



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4. The respondents have opposed this OA on the ground that Sri P.K. Yadav was engaged as substitute EDDA. Since the applicant had misappropriated the amount of Rs. 5,000/- of cheque no. 016659 received by him through registered letter dated 16.02.2001 which was to be delivered to Sri Sheshdhar Maurya, but instead of delivering the letter on him, he misappropriated the money, therefore, he could not be continued any longer as substitute. They have further submitted that Sri Sheshdhar Maurya filed a petition no. 186 of 2001 before the District Consumer Forum, Sant Ravidas Nagar Bhadohi and the department had to face litigation because of Sri P.K. Yadav. Therefore, naturally his services could not have ^{been P} utilised any longer. In any case he has submitted that a substitute has no right to ask for continuance on the post as he has been engaged on the responsibility of regular employee of the Department.

5. We have heard learned counsel for the parties, considered their submissions and perused records.

6. Learned counsel for the applicant submitted that subsequently Sri Sheshdhar Maurya had withdrawn his complaint filed in the Distt. Consumer Forum. Therefore, there is no justification to discontinue his services as substitute.

7. It is seen that the applicant had only prayed for continuance as EDDA as substitute. He has not challenged the engagement of another person namely Sri Satyendra Kumar Pandey who is stated to have been appointed as substitute in his place. Therefore, unless he has challenged the

appointment of Sri S.K. Pandey definitely he can not ask for being permitted to continue on the said post. In any case he was engaged only as substitute and admittedly there was a case filed by one person in Consumer Forum for non delivery of the letter which contained cheque of Rs. 5,000/-. In these circumstances, if the respondents put an end to his services, we do not see any illegality in the action taken by the respondents. He had been engaged only as substitute, therefore, he has no right to claim that he should be continued on the said post. Therefore, the relief as claimed by the applicant in this OA cannot be granted to him. We are also informed by the learned counsel for the respondents that a notification has already been issued on 01.08.2003 for regular selection for the post of EDDA. If the applicant is eligible, as per the notification, it was open to him to apply against the said post. In case, he has already applied, the respondents shall consider his candidature also, provided he fulfills the requirement of the notification. The relief as prayed for by the applicant cannot be granted. Therefore, the OA is dismissed with no order as to costs.

OA no. 915 of 2002

8. This OA has been filed by Sri Satyendra Kumar Pandey, who has submitted that he was engaged as EDDA substitute on 15.6.1999 (pg 12) and he working with the entire satisfaction of his superiors. Vide letter dated 1.8.2002 the respondents relieved the applicant as per instruction of SPO's vide his letter dated 22.7.2002, by giving further direction to engage another substitute on the said post. Simultaneously, on the same date i.e. 01.08.2002 process was initiated for regular selection on the said post.



9. Learned counsel for the applicant has submitted that once the respondents had started process for filling the post on regular basis there was no justification to put an end to his service and engage another substitute in his place, as the law is well settled that one substitute cannot be replaced by another substitute specially when the applicant had already put in 03 years of service.

10. The respondents, on the other hand have opposed this OA and has submitted that the applicant was engaged as substitute EDDA/EDMC Pakhwaiya (Khamaria) on the personal responsibility of Sri Jharkhand Pandey, Ex- BPM, Bhawanipur Gopiganj, but his services had to be discontinued due to serious complaint against him. However, in view of another order passed by this Tribunal the applicant was re-engaged. On merit they have submitted that the applicant had no right to claim his regular appointment on the basis of working experience alone. As per Directorate Communication dated 21.10.2002 a substitute has no legal right for regularisation in the department and has further submitted that the substitute has no legal claim for regularisation simply on the ground of having experience on the post. They have also relied upon the judgment of Hon'ble Delhi High Court in Civil Misc. Writ Petition no. 4997 of 2001 (Ann SCA2). They have also submitted that there is no merit and the same may be dismissed.

11. Learned counsel for the parties, however submitted that the department has already issued a notification on 1.08.2002 by which applications were called for filling the post on regular basis, but the status of said selection was not known. It is seen that when the applicant had approached this Tribunal, Tribunal had protected him by granting interim

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relief and the applicant has continued on the post of EDDA by virtue of interim relief.

12. Since the process for filling the post on regular basis was already initiated by the department, we think that it would be appropriate to dispose of this OA by giving direction to the respondents to complete the process of selection, if not already completed within a period of 04 months from the date of communication of this order and to pass an order for appointment of regularly selected person on the post of EDDA. In case the applicant is not selected as a candidate, he would have to make way for regularly selected candidate as the substitute has no legal right to claim that he should be continued on the said post. Learned counsel for the applicant has submitted that the applicant had already applied in pursuance to the notification dated 01.08.2002. If the applicant had already applied and he is eligible as per notification, we are sure that respondents will consider his candidature as well and whosoever is most meritorious candidate shall be given appointment on the said post, within 02 weeks, thereafter. It is made clear that till such time, the regularly selected candidate is given appointment, the applicant should be allowed to continue on the said post and the respondents may not give appointment to a fresh substitute for this short period.

13. With the above direction the OA is disposed of with no order as to costs.



Member (A)



Member (J)

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