

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1st DAY OF MAY 2001

Original Application No.417 of 2001

CORAM:

HON.MR.S.DAYAL, MEMBER(A)

HON.MR.RAFIQ UDDIN, MEMBER(J)

Tribhuwan Singh, a/a 28 years
Son of Late Sri Uma Shanker Singh
R/o village Kundauli, Post
Lar Road, District Deoria

.... Applicant

(By Adv: Shri A.B.Singh)

Versus

1. Union of India through Chief Post
Master General, U.P.Circle
at Lucknow.
2. Senior Supdt. of Post Offices
Deoria District Deoria
3. Sub Divisional Inspector of Post
Offices, Sub-division, Salempur
Deoria
4. Sub Post Master, Lar Road(RS)Deoria
Extra Departmental Branch Post Office
Pipara Mishra, lar Road, Deoria

.....Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

HON.MR.S.DAYAL, A, M.

This application has been filed for setting aside the order dated 12.3.2001 passed by the respondents no.3. A further direction is sought ~~that~~ to the respondents no.2 to consider the claim of the applicant with regard to his appointment under dying in harness rules and pass an appropriate order in this regard. A further direction/ ^{has been} also/ sought to the respondents to decide the representation of the applicant dated 31.3.2001 and to allow the applicant to

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continue on the post of EDDA.

The facts given in the application^{are} that the father of the applicant was working as Extra Departmental Delivery Agent/Extra Departmental Mail career at Branch Post office Pipra Misra, Lar Road, district Deoria. He died during his service period on 30.11.1997. He applied for appointment under dying in harness rules which was recommended by Sub Divisional inspector of Post Offices Salempur through Senior Superintendent of Post Offices Deoria. The claim of the applicant for appointment is under consideration of Sr. Superintendent of Post Offices Deoria district. The applicant was appointed on the post of EDDA/EDMC originally for a period of six months or till regular appointment was made whichever was shorter. It is claimed by the applicant that he joined services on 20.2.1998 pursuant^t to the order mentioned above and no regular appointment to the post has been made so far. ^{as} The claim of the applicant for appointment under dying in harness rules is under consideration of respondent no.2. The learned counsel for the applicant has raised a further contention that since the applicant has completed more than three years, he is entitled to a notice before his appointment is terminated.

We have heard Shri A.B.Singh learned counsel for the applicant and Shri Ganga Ram Gupta holding brief of Sri R.C.Joshi learned counsel for the respondents.

We find that the impugned order requires one Shri Lakshmi Gupta EDDA Bagaha/Lar Road to get relieved from his post and work as EDDA/EDMC Piparamishra^{for} relieving the applicant. Shri Lakshmi Gupta in turn was to be relieved^{by} by Sri Ram Dular Misra, EDDA Bagaha who has ^{Sri} to perform the work of Lakshmi Gupta in addition

to the work assigned to him. The order further authorises Sri Lakshmi Gupta to nominate some person to work as his substitute on his post.

It is admitted case that the applicant was engaged as EDDA/EDMC Piparamishra on provisional basis and the provisional appointment was the subject approval by the Chief P.M.G, U.P.Circle and was terminable when regular appointment was made. The period of appointment was six months or till the date of regular appointment which ever was shorter. Thus the nature of appointment was fortuitous as it was made without following the regular procedure for filling up of the post.

Since more than three years have elapsed, it is clear that the applicant should have been given one months notice or one months pay in lie of the notice. The applicant has been relieved without one months notice and is therefore entitled to one months pay in lieu of the notice.

The applicant has filed a representation addressed to respondent no.2. It has been mentioned in the representation that the applicant has been relieved on 23.2.2001 by order dated 12.3.2001. However, a prayer has also been made that the case of the applicant for appointment under dying in harness rules be considered in view of the proposal made by the respondent no.3 earlier.

In the facts and circumstances of the case we feel that ends of justice would be met if the Chief Post Master General, U.P.Circle at Lucknow is directed to dispose of the representation of the applicant for compassionate appointment within a period of two months from the date of receipt of a copy of this order from the applicant. The respondent no.2 shall make payment

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of one months emoluments in lieu of the notice of one month within a period of two months from the date of receipt of copy of this order. There shall be no order as to costs.

Rahimuddin

MEMBER(J)

Shah

MEMBER(A)

Dated: 1.5.2001

Uv/